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TRANSCRIPT OF RECORD

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IN THE

**Supreme Court of the United States**

OCTOBER TERM, A. D. 1944.

No. 307

In the Matter of:

GOLD MEDAL LAUNDRIES, INC., A CORPORATION,  
Bankrupt.

HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF GOLD  
MEDAL LAUNDRIES, INC.,

*Petitioner,*

vs.

ARTHUR S. KAPLAN, HARRY KOPLIN AND BUDGET  
LAUNDERERS, INC., FORMERLY KNOWN AS CHICAGO  
LAUNDRY BUILDING COMPANY, A CORPORATION, AND  
UNIQUE LAUNDERERS, INC.,

*Respondents.*

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE SEVENTH CIRCUIT.





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TRANSCRIPT OF RECORD

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In the  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

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No. **8447**

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IN THE MATTER OF  
GOLD MEDAL LAUNDRIES, INC., A CORPORATION,  
BANKRUPT.

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ARTHUR S. KAPLAN, HARRY KOPLIN, AND BUDGET  
LAUNDERERS, INC., FORMERLY KNOWN AS CHICAGO  
LAUNDRY BUILDING COMPANY, A CORPORATION, AND  
UNIQUE LAUNDERERS, INC.,

*Appellants,*

*vs.*

HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF GOLD  
MEDAL LAUNDRIES, INC.,

*Appellee.*

Appeal from the District Court of the United States for  
the Northern District of Illinois, Eastern Division.

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THE GUTHORP WARREN PRINTING COMPANY, 210 WEST JACKSON, CHICAGO

TRANSCRIPT OF RECORD FILED NOV. 3, 1942.  
PRINTED RECORD.



In the  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

**No. 8447**

IN THE MATTER OF

**GOLD MEDAL LAUNDRIES, INC., A CORPORATION,**  
**BANKRUPT.**

**ARTHUR S. KAPLAN, HARRY KOPLIN, AND BUDGET  
LAUNDERERS, INC., FORMERLY KNOWN AS CHICAGO  
LAUNDRY BUILDING COMPANY, A CORPORATION AND  
UNIQUE LAUNDERERS, INC.,**

*Appellants,*

*vs.*

**HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF GOLD  
MEDAL LAUNDRIES, INC.,**

*Appellee.*

Appeal from the District Court of the United States for  
the Northern District of Illinois, Eastern Division.





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1      Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, begun and held at the United States Court Room, in the City of Chicago, in said District and Division, before the Honorable John P. Barnes, District Judge of the United States for the Northern District of Illinois on 22nd day of October, in the year of our Lord one thousand nine hundred and forty-two, being one of the days of the regular October Term of said Court, begun Monday, the 5th day of October, and of our Independent the 167th year.

Present:

Honorable John P. Barnes.

William H. McDonnell, U. S. Marshal.

Roy H. Johnson, Clerk.



## IN THE DISTRICT COURT OF THE UNITED STATES

Northern District of Illinois,

Eastern Division.

In the Matter of

Gold Medal Laundries, Inc.,  
a corporation

} No. 76517

Be It Remembered, that the above-entitled action was commenced by the filing of the following Petition in the above-entitled cause in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 22nd day of September, A. D., 1941.

## IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—76517) \* \*

## PETITION OF ADJUDICATION.

(Filed Sept. 22, 1941.)

Comes now petitioners, S. I. Arnopolin, Joe Zarovsky and Sam Adams, and respectfully represent as follows:

1. That the Gold Medal Laundries, Inc., a Corporation, has, for the greater portion of the six (6) months next preceeding the date of the filing of this petition, and for a long time prior thereto, had its principal place of business at 2621 West Chicago Avenue, in the State and District aforesaid, and owes debts in the amounts or in excess of One Thousand Dollars \$1,000.00).

2. Petitioners further represent that the alleged bankrupt is and has been engaged in and about the business of steam and general laundry at the aforesaid address, in the County of Cook and State and District aforesaid, and it is not a wage earner or a person engaged chiefly in the tillage of the soil, nor a municipal, railroad, insurance or banking corporation, and further, that it is now insolvent.

3. Your petitioners further represent that they are creditors of the alleged bankrupt, Gold Medal Laundries, Inc., having provable claims against it amounting to the



aggregate in-in excess of the value of the securities held by them in a sum equivalent to and in excess of Five Hundred Dollars (\$500.00).

4. Your petitioners further represent that the claim of S. I. Arnopolin is based upon a judgment entered on 4. the 19th day of September, A. D. 1940, in the Municipal Court of Chicago, Illinois, for the sum of Thirty-five Hundred, Twenty-three Dollars and Fifty Cents (\$3523.50), which judgment stands unsatisfied, unvacated and unreversed.

5. Your petitioners further represent that the claim of Joe Zarovsky is for goods, wares and merchandise sold and delivered to the alleged bankrupt at its special instance and request in the sum of Twenty-two Hundred Dollars (\$2200.00).

6. Your petitioners further represent that the claim of Sam Adams is based upon the sale of certain interests that he possessed in a certain chattel mortgage, and in addition thereto for commissions earned by the plaintiff from the alleged bankrupt on or about September 7, A. D. 1939, in the sum of Sixteen Hundred, One Dollars and Thirteen Cents (\$1601.13).

7. Your petitioners further represent that the alleged bankrupt is insolvent and while so insolvent, and within four (4) months immediately preceding the filing of this petition in bankruptcy, it paid various of its creditors with intent thereby to prefer said creditors over others of like class, including your petitioners, and that the names of said other creditors and the amounts paid them are unknown to your petitioners at this time; but such facts may be ascertained upon inspection of the alleged bankrupt's books and records, and an examination of the alleged bankrupt or its officers under Section 21A of the Act of Congress Relating to Bankruptcy; further, that your petitioners, on information and belief, state that the alleged bankrupt, while insolvent, on or about the 10th day of August, A. D. 1941, concealed or permitted to be concealed certain assets or property with intent to hinder, delay or defraud

5 its creditors or any of them, including your petitioners; further, petitioners on information and belief charge the fact to be that on or about the 1st day of July, A. D. 1941, the alleged bankrupt transferred, while insolvent, certain portions of its property to one or more creditors with intent to prefer such creditors over others of similar class, including your petitioners.

*Petition.*

Wherefore, your petitioners pray that service of this petition, with a subpoena, may be made upon the said Gold Medal Laundries, Inc., a Corporation, as provided in the Acts of Congress Relating to Bankruptcy, and that it may be adjudged a bankrupt within the purview of said acts.

S. I. Arnopolin, Joe Zarovsky & Sam Adams,

By Russell J. Topper,

*Their Duty Authorized Agent and Attorney.*

Russell J. Topper,

*Attorney for Petitioners.*

State of Illinois }  
County of Cook } ss.

Russell J. Topper, being first duly sworn on oath, deposes and says that he is the duly authorized agent and attorney of record for the petitioners and creditors, S. I. Arnopolin, Joe Zarovsky and Sam Adams, in the above entitled cause; that he has read the above and foregoing petition by him subscribed; that he knows the contents thereof, and that the same is true in substance and in fact, except as to the matters and things therein stated to be upon information and belief, and as to those matters and things he believes it to be true.

Russell J. Topper:

Subscribed and sworn to before me this 20th day of September, A. D. 1941.

Charles T. Kramer,  
*Notary Public.*

(Seal)

6 And afterwards, to wit, on the 21st day of October, A. D. 1941, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Reference in Bankruptcy, the following entry, to wit:

*Order of Adjudication.*

5

7 IN THE DISTRICT COURT OF THE UNITED STATES  
\* \* (Caption—76517) \* \*

ORDER.

(Entered Oct. 21, 1941.)

At Chicago, Illinois, this 21st day of October, A. D. 1941,  
before the Honorable Referee Archie Cohen.

This cause coming on to be heard upon motion of the petitioning creditors herein, by their attorney, Russell J. Topper, for the entry of an order of default and of adjudication in bankruptcy pursuant to the Act of Congress relating to Bankruptcy, and it appearing to this Court that there are no other parties of record entitled to service of notice of the motion herein contained, and further that a subpoena duly issued out of the office of the Marshall of the United States and served on September 24, A. D. 1941, upon the Gold Medal Laundries, Inc.; further, that the aforesaid subpoena was returnable October 2, A. D. 1941, and that the alleged bankrupt, the Gold Metal Laundries, Inc., did not appear or plead to the petition for an adjudication within the time required by Law, and the Court being fully advised in the premises Doth Order.

That The Gold Medal Laundries, Inc., be and the same is hereby adjudged in default for failure to appear and plead to the petition in bankruptcy heretofore filed on September 22, A. D. 1941, and that pursuant to the Act of Congress relating to Bankruptcy it is hereby adjudicated a bankrupt.

That leave be and the same is hereby given the petitioning creditors herein to file a list of creditors of the bankrupt within five (5) days from date hereof, and that the first meeting of creditors be and the same is hereby set for 10:00 A. M. on the 12th day of November, A. D. 1941, in Room 1801, 7 South Dearborn Street, Chicago, Illinois, and the meeting thereof to be conducted in accordance with the Act of Congress relating to Bankruptcy.

Enter:

Archie H. Cohen,  
*Referee in Bankruptcy.*

9 And afterwards on, to wit, the 22nd day of December A. D. 1941 came Harry W. Cline, Trustee by his attorneys and filed in the Referee's office of said Court his certain petition for turn-over order (which was filed in the Clerk's Office December 14, 1942) in words and figures following, to wit:

10 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—76517)

### PETITION OF TRUSTEE FOR TURN-OVER ORDER.

To the Honorable Archie H. Cohen, Referee in Bankruptcy:

Now comes Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc., a Corporation, and respectfully represents unto this Court the following:

1. That on September 22, A. D. 1941, an involuntary petition in bankruptcy was filed herein against Gold Medal Laundries, Inc.; that thereafter an order of adjudication was entered herein, and on November 26, A. D. 1941, your petitioner was duly elected and appointed Trustee in Bankruptcy of the bankrupt herein, and that he is now the duly appointed, qualified and acting Trustee in Bankruptcy of Gold Medal Laundries, Inc., bankrupt herein.

2. That the bankrupt herein was, on September 7, A. D. 1941, duly organized as a corporation under the laws of the State of Illinois to conduct the business of steam and general laundry at 2621-31 West Chicago Avenue, Chicago, Illinois, and did thereafter conduct and operate said business at the aforesaid address.

3. That on or about August 15, A. D. 1939, the Strand Family Laundry Company, a Corporation, located at  
11 the same address where the business of the bankrupt was conducted, viz.: 2621-31 West Chicago Avenue, Chicago, Illinois, owned the fee title estate in the following described property:

Lots 7-10, inclusive, in the Resubdivision of Block 3 (except the East 67 feet thereof) in Wright and Webster's Subdivision of the Northeast Quarter of Section 12, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois;

that on or about, to-wit: August 15, A. D. 1939, the said Strand Family Laundry Company, a Corporation, filed a voluntary petition in bankruptcy in this Court, and pursuant thereto Maurice Klein was duly appointed Receiver of all of the assets of the said bankrupt, including the property and real estate above described, and on, to-wit: August 30, A. D. 1939, said Receiver, pursuant to order of this Court, and in compliance with all the formal requirements of sale, sold all of the personal property and real estate of the Strand Family Laundry Company, a Corporation, including the real estate above described, to Maurice Ginsburg and Max Heiman for the sum of Three Thousand Dollars (\$3,000.00) and the assumption by said purchasers of all outstanding wage claims.

4. That it was orally agreed and understood by and between the aforesaid purchasers, Maurice Ginsburg and Max Heiman, prior to their purchase of the assets of Strand Family Laundry Company, bankrupt, that a corporation would be organized to be known as Gold Medal Laundries, Inc., the bankrupt herein, and that said Maurice Ginsburg and Max Heiman would advance by a loan the funds or monies necessary to purchase all of the assets of the Strand Family Laundry Company, a Corporation, and would take title to said assets in their name or names for the sole purpose of securing repayment to themselves from Gold Medal Laundries, Inc., a bankrupt herein, of the said purchase price.

12 5. That the Gold Medal Laundries, Inc., was thereafter organized on September 7, A. D. 1939, and did enter into and adopt the aforesaid oral agreement to pay the indebtedness to Maurice Ginsburg and Max Heiman at the rate of Sixty Dollars (\$60.00) weekly until fully satisfied; whereupon said purchasers were to reconvey all right, title and interest thereto to the Gold Medal Laundries, Inc.

6. That the subject matter of the aforesaid agreement consisted of all of the assets and property involved in the sale and transfer by the Receiver, Maurice Klein, to Maurice Ginsburg and Max Heiman, such as the good-will, routes and customers' lists; the present market value of which is approximately Fiftygen Thousand Dollars (\$15,000.00); the equities in all of the machinery and equipment, furniture and trucks, and the equity in the realty located at 2621-31 West Chicago Avenue, Chicago, Illinois, together with the fixtures annexed to the realty, such as heat,



reclaimers, softeners, etc., the market value of which is approximately Fifteen Thousand Dollars (\$15,000.00).

7. That the Gold Medal Laundries, Inc., pursuant to the terms of the aforesaid conditional sales contract, paid or caused to be paid to Maurice Ginsburg and Max Heiman the weekly payments thereunder, and was not in default thereunder on or before the 12th day of June, A. D. 1940.

8. That on the 12th day of June, A. D. 1940, Maurice Ginsburg and Max Heiman, allegedly sold and conveyed to Arthur S. Kaplan, for and in behalf of Harry Koplin, all of their right, title and interest, legal and beneficial, in and to the assets and property acquired by them from Maurice Klein in the method and manner hereinbefore described, notwithstanding the absence of any default or violation of the aforesaid conditional sales agreement between the Gold Medal Laundries, Inc., and Maurice Ginsburg and Max Heiman.

9. That Harry Koplin, and his nominee and dummy, Arthur S. Kaplan, did on and before June 12, A. D. 1940, have knowledge of the existence of the aforesaid conditional sales agreement, and that the payments had been made thereunder in accordance therewith, and that no default had existed.

10. That neither Harry Koplin, or his agent and dummy, Arthur S. Kaplan, nor did Maurice Ginsburg, notify or cause any notice to be given or served upon the creditors of the Gold Medal Laundries, Inc., of the sale to Harry Koplin and Arthur S. Kaplan, in accordance with the statutes of the State of Illinois in such cases made and provided.

11. That on or about September 7, A. D. 1939, the Gold Medal Laundries, Inc., lawfully and rightfully entered into possession of the improved premises located at 2621-31 West Chicago Avenue, Chicago, Illinois, and thereafter conducted, operated and carried on at said location the business of steam and general laundry until on or about July 1, A. D. 1940.

12. That on or about June 12, A. D. 1940, Gold Medal Laundries, Inc., was lawfully and rightfully possessed of the aforesaid improved premises; that said corporation being so possessed, the respondent, "Budget Launderers, Inc.", also known as "Chicago Laundry Building Company, A Corporation" and "Unique Launderers, Inc.", by and through its duly authorized agents, representatives, ser-

vants and employees in its behalf, without any notice or demand therefor as required by law, unlawfully and wrongfully ousted and dispossessed the alleged bankrupt,

14 The Medal Laundries, Inc.

13. That the unlawful and wrongful ouster and dispossession hereinbefore described, and the acquisition of the assets and property of the Gold Medal Laundries, Inc., was conceived, formulated and executed pursuant to a plan of conspiracy of Harry Koplin and Arthur S. Kaplan, brother-in-laws, to defraud and cheat the creditors of the Gold Medal Laundries, Inc., of any and all rights, claims, assets and property thereof to satisfy in part or in full their just claims.

14. That pursuant to said plan of conspiracy, Arthur S. Kaplan, an attorney-at-law, first proposed to Samuel Millman and the officers of the Gold Medal Laundries, Inc., to combine with him in the fraudulent execution of a fictitious lease to be signed by the Gold Medal Laundries, Inc., as lessee, at a fixed rental, under a pre-date, involving the premises located at 2621-23 West Chicago Avenue, Chicago, Illinois; that the purpose and object of the aforesaid plan was to show a false and fraudulent default thereunder in order to bring about the immediate dispossession of the Gold Medal Laundries, Inc., to the aforesaid premises; that Samuel Millman and the officers and directors of the Gold Medal Laundries, Inc., refused to participate in this fraudulent plan and scheme proposed by said Arthur S. Kaplan; that Harry Koplin purchased or otherwise acquired from March 6 to June 14, A. D. 1940, in his name and in the name of his dummies or nominees, the entire ownership and control of the total issued capital stock of the Gold Medal Laundries, Inc.; then, contemporaneously therewith, said Harry Koplin created or caused to be created "The Chicago Laundry Building Company, A Corporation", organized under the laws of the State of Illinois which it thereafter, by amendments to its Articles of Incorporation, duly adopted and acquired the successive names of "Unique Launderers, Inc." and "Budget Launderers, Inc.", for the express purpose of acquiring and stripping the Gold Medal Laundries, Inc., of all of its assets without payment of its creditors' claims; that the stockholders of said "Budget Launderers, Inc." consist of Arthur S. Kaplan, who holds in his name ninety-eight per cent (98%) of the issued capital stock, Ben Rosenfield and Harold



Director, attorneys-at-law and partners of Arthur S. Kaplan, hold the remaining two per cent (2%) of said stock; and that neither of the stockholders have at any time paid or caused to be paid any consideration to the "Budget Launderers, Inc." out of their individual funds and monies; that they hold such stock only as dummies and nominees of Harry Koplin, and that said "Budget Launderers, Inc." is distinctly a one-man corporation, completely owned, dominated and controlled by Harry Koplin, created solely for the purpose of acquiring all of the assets and property of the Gold Medal Laundries, Inc., and to defraud its creditors.

15. That pursuant to said fraudulent plan and conspiracy, as hereinbefore described, Harry Koplin, by the acquisition of the entire stock ownership and control of the alleged bankrupt, The Gold Medal Laundries, Inc., did control, paralyze and prevent any action of said corporation to protect itself against and prevent its wrongful ouster and dispossession from the aforesaid improved premises and the unlawful acquisition of its assets and property.

16. That none of the respondents herein is the owner of the assets and property of the bankrupt corporation herein, namely: good-will, customers' lists, laundry routes, machinery, equipment, trucks, furniture and fixtures situated at 2621-31 West Chicago Avenue, Chicago, Illinois, and never acquired title or right to possession in and to any of said assets; that said assets have been and were the property of Gold Medal Laundries, Inc., bankrupt corporation, at the time the petition in bankruptcy was filed and should be turned over to the Trustee in Bankruptcy herein for the benefit of the creditors of this estate.

Wherefore, your petitioner prays that this Court enter an order directing Arthur S. Kaplan, Harry Koplin, "Budget Launderers, Inc.", also known as "Chicago Laundry Building Company, A Corporation" and "Unique Launderers, Inc.", to forthwith turn over to your petitioner the assets and property of the bankrupt corporation herein, namely: good-will, customers' lists, laundry routes, machinery, equipment, trucks, furniture, fixtures and all other personal property now situated at 2621-31 West Chicago Avenue, Chicago, Illinois, and that in the meantime said respondents be restrained and enjoined, by order of this Court, from using the customers' lists or routes of the bankrupt corporation or in anywise contacting or communi-

eating with any of the customers of the bankrupt corporation; and that this Court grant such other and further relief as shall seem meet.

Harry W. Cline  
*Trustee in Bankruptcy.*

17 State of Illinois }  
County of Cook } ss.

Harry W. Cline, being first duly sworn on oath, deposes and says that he is the Trustee in Bankruptcy and petitioner in the above entitled cause; that he has read the foregoing complaint by him subscribed; that he knows the contents thereof, and that the same is true in substance and in fact.

Harry W. Cline.

Subscribed and sworn to before me this 17 day of December, A. D. 1941.

Charles Kramer,  
*Notary Public.*

(Seal)

18 And afterwards on, to wit, the 2nd day of January, A. D. 1942, came the Respondents by their attorneys and filed in the Referee's office of said Court their certain Answer (which was filed in the Clerk's Office December 14, 1942); in words and figures following, to wit:

19 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—76517) \* \*

ANSWER.

Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., a corporation, respondents, by Kaplan & Rosenfield, their attorneys, in answer to the Petition of Trustee for Turn-Over Order state as follows:

1. Answering Paragraph 1 of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

2. Answering Paragraph 2, these respondents have no

knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

3. Answering Paragraph 3 of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

4. a) Answering Paragraph 4 of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

b) Paragraph 4 of the petition is defective and should be stricken for the following reasons:

1) It fails to set forth the parties to the alleged oral agreement.

2) It fails to set forth the consideration for the alleged oral agreement.

3) The alleged oral agreement is contrary to the 20 State of Frauds in such cases made and provided.

5. Answering Paragraph 5, upon information and belief these respondents deny each and every allegation thereof and state that they are informed and therefore believe the facts to be that the sum of Sixty Dollars (\$60.00) paid sometimes weekly by Gold Medal Laundries, Inc., a corporation, to Maurice Ginsburg and Max Heiman was paid as and for a license to use the customers lists and laundry routes acquired by the said Maurice Ginsburg and Max Heiman.

6. Answering Paragraph 6, your respondents have no knowledge as to the subject matter of the purported agreement.

7. Answering Paragraph 7, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof, except as noted in Paragraph 5 above.

8. Answering Paragraph 8, these respondents admit that Arthur S. Kaplan purchased from Maurice Ginsburg and Max Heiman all of their right, title and interest acquired by the said Maurice Ginsburg and Max Heiman from the said Maurice Klein, as receiver; further answering, these respondents deny that they had any notice or knowledge of any conditional sales agreement by and between the Gold Medal Laundries, Inc., a corporation, and Maurice Ginsburg and Max Heiman.

9. Answering Paragraph 9, these respondents expressly deny each and every allegation thereof.

10. Answering Paragraph 10, these respondents deny that they, or either of them, were required by statute to give or serve any notice of any kind upon creditors of Gold Medal Laundries, Inc., a corporation.

11. Answering Paragraph 11 of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

12. Answering Paragraph 12, these respondents deny each and every allegation thereof.

13. Answering Paragraph 13, these respondents deny each and every allegation thereof.

14. Answering Paragraph 14, these respondents deny each and every allegation thereof and state the facts to be as follows: Arthur S. Kaplan purchased the right, title and interest of Maurice Ginsburg and Max Heiman as above stated and entered into a contract to purchase the realty from the record title holder, the First United Finance Company, a corporation; he also acquired by purchase from the legal holders and record title owners all of the fixtures, machinery, apparatus and furniture then located in and upon the premises at 2621-31 West Chicago Avenue, Chicago, and that none of the property herein described, real or personal, equitable or legal, ever belonged to or was ever owned by Gold Medal Laundries, Inc., a corporation.

15. Answering Paragraph 15, these respondents deny each and every allegation thereof.

16. Answering Paragraph 16, these respondents deny each and every allegation thereof, and further answering, restate as though fully set forth herein, the averments of Paragraph 14 above.

Wherefore, these respondents having fully answered, pray that an order may be entered dismissing the Petition for Turn-Over Order and for such other orders as to the Court may seem meet.

Arthur S. Kaplan, Harry Koplin and  
Budget Launderers, Inc., a corporation,

By: Arthur S. Kaplan.  
Arthur S. Kaplan.

22 State of Illinois }  
County of Cook } ss.

Arthur S. Kaplan, being first duly sworn on oath deposes and says that he is one of the respondents named in the Petition for Turn-Over Order and that he is the duly authorized agent in this behalf of Harry Koplin and Budget Launderers, Inc., a corporation; that he has read the above and foregoing Answer by him subscribed, that he knows the contents thereof and that the same is true, except as to those matters stated to be upon information and belief, and as to these matters, he believes them to be true.

Arthur S. Kaplan.

Subscribed and Sworn to before me this 2nd day of January, A. D. 1942.

Gabriel Goldberg,  
Notary Public.

(Seal)

23 . And afterwards on, to wit, the 27th day of January, A. D. 1942, came Harry W. Cline, Trustee, by his attorneys and filed in the Referee's office of said Court his certain First Amendment to Trustee's petition for turn-over order (filed in the Clerk's Office December 14, 1942) in words and figures, to wit:

24 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* \* (Caption—76517) \* \*

### FIRST AMENDMENT TO TRUSTEE'S PETITION FOR TURN-OVER ORDER.

Comes now Harry W. Cline, Trustee of the Gold Medal Laundries, Inc., a corporation, pursuant to leave of Court first had and obtained, and files this, his first amendment to his petition as aforesaid, and represents as follows:

(1) Referring to paragraph 2 of Trustee's petition, strike "1941" and insert the following:

1939

(2) Referring to page 7 in the prayer for relief para-



graph, following the words "bankrupt corporation", insert the following:

Further, that these respondents be directed to restore to and deliver up possession of the improved premises located at 2621-31 West Chicago Avenue, Chicago, Illinois to petitioner.

Harry W. Cline.

25 And afterwards, to wit, on the 13th day of February, A. D. 1942, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy, appears the following entry, to wit:

26 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—76517) \* \*

**ORDER.**

At Chicago, Illinois in said District Before Referee Archie H. Cohen. Dated: February 13, 1942.

This cause coming on to be heard upon petition of Harry W. Cline, Trustee in Bankruptcy of the Gold Medal Laundries, Inc. a corporation, bankrupt herein, for the entry of an order enjoining and restraining Harry Koplin, Budget Launderers, Inc. and Arthur Kaplan from selling or in any manner transferring certain assets and property of the bankrupt, Gold Medal Laundries, Inc. until further order of this Court, and it appearing to this Court that due and timely notice has been served upon the respondents herein and after hearing the representations and arguments of counsel for the respective parties herein and being fully advised in the premises, Doth Order:

That Harry Koplin, Budget Launderers, Inc. and Arthur Kaplan be and each of them, their employees, agents or servants in their behalf are hereby enjoined and restrained from selling, transferring, conveying, encumbering, mortgaging or otherwise disposing of any or all of the assets and property such as the laundry routes operated by the Budget Launderers, Inc. at 2621 West Chicago Avenue,

Chicago, Illinois, heat reclaimers, softeners and machinery and equipment located at 2621 West Chicago Avenue,  
 27 Chicago, Illinois, until further order of this Court.

Enter:

Archie H. Cohen,  
*Referee in Bankruptcy.*

28 And afterwards on, to wit, the 10th day of April,  
 A. D. 1942 there was filed in the Referee's office of said Court a certain Motion in words and figures following,  
 to wit:

29 IN THE DISTRICT COURT OF THE UNITED STATES.  
 \* \* (Caption—76517). \* \*

**MOTION OF ARTHUR S. KAPLAN, HARRY KOPLIN,  
 BUDGET LAUNDERERS, INC., RESPONDENTS TO  
 PETITION OF TRUSTEE FOR TURNOVER ORDER.**

To the Honorable Archie H. Cohen, Referee in Bankruptcy:

Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., a corporation, by Kaplan & Rosenfield their attorneys move this Honorable Court for the entry of an order dismissing the Petition for Turnover Order heretofore filed herein by Harry W. Cline, Trustee in bankruptcy of the Gold Medal Laundries, Inc., a corporation bankrupt herein for the following reasons:

(1) that S. I. Arnopolin, one of the petitioning creditors for adjudication of bankruptcy herein, was, at the time of the filing of said petition for adjudication, disqualified and incompetent to be a petitioning creditor for the following reasons:

(a) the said S. I. Arnopolin was not a duly qualified creditor of bankrupt corporation.

(b) the said S. I. Arnopolin was at the time of the filing of the petition of adjudication herein an officer, to-wit: President of Gold Medal Laundries, Inc., a corporation, bankrupt herein, and thereby disqualified to act as a petitioning creditor.

30 (c) that one of the acts of bankruptcy complained of in the petition for adjudication, and one of the acts



complained of in the trustee's petition for turnover is the alleged transfer of the assets of the Gold Medal Laundries, Inc., a corporation, bankrupt herein to these respondents; that in fact said S. I. Arnoloplin was a party thereto having signed and executed on behalf of the said Gold Medal Laundries, Inc., a corporation, the agreement complained of in said petitions.

By reason of the foregoing, no jurisdiction has vested in this Honorable Court in this cause, and the court is without jurisdiction of the subject matter, and should not further hear evidence in support or denial of the petition heretofore filed herein.

Wherefore, these respondents pray that an order may be entered by this Honorable Court dismissing the petition of trustee for a turnover order and for the entry of such other orders as this court may deem proper and necessary.

Kaplan & Rosenfield,  
*Attorneys for the with-  
in named respondents.*

By: Ben Rosenfield.

Dated at Chicago, Illinois this 10th day of April, 1942.

31 And afterwards, to wit, on the 12th day of May, A. D. 1942, being one of the days of the regular May term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy appears the following entry, to wit:

32 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—76517) \* \*

### ORDER.

At Chicago, in the District Court aforesaid, on the 12th day of May, A. D. 1942 before Archie H. Cohen, Referee in Bankruptcy, this cause coming on to be heard upon motion of Harry Köplin one of the respondents to trustee's petition for turn over order and,

There being present before the court Russell J. Topper,

counsel for the trustee and Ben Rosenfield, counsel for said respondent and, the court having heard the respective counsel, The Court Doth Find:

(1) That on February 13, 1942 an order was entered by His Honor Archie H. Cohen, Referee in Bankruptcy, which order recites in part as follows:

"That Harry Koplin, Budget Launderers, Inc. and Arthur Kaplan be and each of them, their employees, agents or servants in their behalf are hereby enjoined and restrained from selling, transferring, conveying, encumbering, mortgaging or otherwise disposing of any or all of the assets and property such as the Laundry routes operated by the Budget Launderers, Inc. at 2621 West Chicago Avenue, Chicago, Illinois, heat reclaimers, softeners and machinery and equipment located at 2621 West Chicago Avenue, Chicago, Illinois, until further order of this court."

(2) That the trustee herein does not claim nor does he assert any claim or interest in the following described equipment which is now on the premises at 2621 West Chicago Avenue, Chicago, Illinois.

33 Wherefore, it is ordered that said restraining order of February 13, 1942 heretofore entered herein be and it is hereby modified and amended by the addition of the following clause:

"This order does not and shall not restrain or enjoin the said Harry Koplin, Budget Launderers, Inc. and Arthur Kaplan, any or either of them from disposing of or in any other manner from dealing with the following described equipment, now located on the premises at 2621 West Chicago Avenue, Chicago, Illinois:

One (1) 24x100 special ironer of U. S. Navy specifications designed for sea base work.

One (1) 36x120 special Zephyr experimental ironer:

Enter:

Archie H. Cohen,

*Referee in Bankruptcy.*

34 And afterwards on, to wit, the 19th day of May, A. D. 1942 there was filed in the Referee's office of said Court a certain Special & limited appearance, etc. in words and figures following, to wit:

35 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—76517) • •

SPECIAL AND LIMITED APPEARANCE OF ARTHUR S. KAPLAN, HARRY KOPLIN AND BUDGET LAUNDERERS, INC., AND MOTION OF SAID RESPONDENTS TO DISMISS THE ORIGINAL PETITION AND THE AMENDMENT TO SAID ORIGINAL PETITION FILED BY HARRY W. CLINE, TRUSTEE HEREIN, ON DECEMBER 22, 1941, AND JANUARY 26, 1942.

Now come Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., by Schwartz and Cooper and Kaplan and Rosenfield, their attorneys, and in response to the petition for turn over order filed herein by Harry W. Cline, Trustee herein, on December 22, 1941; and the first amendment to said petition filed herein by said Trustee on January 26, 1942, file herewith their respective special and limited appearances, for the sole purpose of contesting the jurisdiction of this Court with regard to the said petition of said Trustee and the amendment thereto, and move the Court to dismiss said petition and amendment thereto as to each and all of them, and in support of said motion state as follows:

A—These respondents are adverse claimants, having full and complete title and actual possession of the property referred to in said petition and amendment thereto, so that this Court does not have jurisdiction to adjudicate the rights of these respondents with regard to said property summarily in these proceedings; that these respondents have had title and actual possession of said property for approximately eighteen (18) months prior to September 22, 1941, the date of the filing of the petition for adjudication in this cause, and have never relinquished their said possession or title to this Court or any officer or agent acting for or on behalf of this Court; that therefore, the rights of these respondents can be determined only in a plenary action.

B—That the said petition and amendment thereto of the Trustee herein is vague and insufficient on its face, and does not set forth any facts which would confer jurisdic-

tion in this Court over these respondents or the property referred to in said petition so as to enable this Court to determine the rights of these respondents therein in a summary manner.

Wherefore, your respondents respectfully pray that an order be entered determining that your respondents are adverse claimants; that this Court does not have jurisdiction to determine the rights of these respondents in and to the property referred to in the Trustee's petition and amendment thereto in a summary manner, and that the said petition of the Trustee and the first amendment thereto be dismissed.

Arthur S. Kaplan

Harry Koplin

Budget Launderers, Inc.

By: Schwartz & Cooper

Kaplan & Rosenfield

*Their Attorneys.*

State of Illinois }  
County of Cook } ss.

Norman H. Nachman, being first duly sworn, upon his oath deposes and states that he is an attorney-at-law associated with the firm of Schwartz and Cooper, co-counsel for the foregoing named respondents; that he has read the foregoing motion to dismiss, knows the contents thereof and states that said motion is, in his opinion, well founded in law and is not interposed for the purpose of delay.

Norman H. Nachman.

Subscribed and sworn to before me this 18th day of May, A. D. 1942.

(Seal)

Dorothy E. Schwartz,

*Notary Public.*

40 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* \* (Caption—76517) \* \* \*

37 (Filed July 15, 1942. Archie H. Cohen,  
Referee in Bankruptcy.)

HEARING ON TURN-OVER PETITION.

The following is a stenographic transcript of proceedings had and evidence introduced in the above entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy, at this court room, suite 1801, 7 South Dearborn Street, Chicago, Illinois, at the hour of ten-thirty o'clock A. M., January 13, 1942.

Appearances:

Mr. Russell J. Topper, appearing on behalf of Harry W. Cline, trustee, and petitioning creditors.

Messrs. Kaplan & Rosenfield (By Mr. Ben Rosenfield and Mr. Arthur S. Kaplan), appearing on behalf of Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., respondents.

41 Mr. Eli Herman, appearing on behalf of a creditor.

Mr. Topper: If the Court please, I presume your Honor has read the pleadings.

The Court: I have read them. Let us proceed.

Mr. Topper: Mr. Millman, will you take the stand, please?

ROBERT J. MILLMAN, was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Will you state your name, please?

A. Robert J. Millman.

Q. And your home address?

A. 2632 Winona Street, Chicago.

Q. What is your business or occupation, Mr. Millman?

A. I am a lawyer.

Q. And where are you located at?

A. 39 South La Salle Street.

Q. Are you familiar with the Gold Medal Laundries?

A. Yes, sir.

42 Q. What was your connection, if any, that you had with the Gold Medal Laundries?

A. I was their attorney.

Q. When was the Gold Medal Laundries incorporated, if you know?

A. Approximately around the first week of September of 1939.

Q. Did you have anything to do with its incorporation?

A. I incorporated it.

Q. Who were the incorporators, if you know?

A. If I remember correctly, they were S. I. Arnopolin, Ruth Kordine and S. Kostman.

Q. And the original stockholders; who were they?

A. If I remember correctly, all of the shares, with the exception of two, were issued to S. I. Arnopolin, and one share each to Kordine and Kostman.

Q. The nature of the stock that was issued, was it common or preferred?

A. My recollection is that it was all common stock.

Q. And the total authorized issue was how much, Mr. Millman?

A. I believe it was one thousand dollars.

Q. And the actual issue?

A. One thousand dollars. You mean the authorized capital?

43 Q. The authorized issue of stock.

A. I don't know. It might have been twenty-five or fifty thousand dollars.

Q. What was the actual issued stock?

A. I believe it was one thousand dollars.

Q. What was the nature of the business of the Gold Medal Laundries in September of 1939?

A. Well, they operated a laundry business.

Q. And where were they located?

A. 2621 Chicago Avenue, Chicago.

Q. Prior to that time who had owned and operated the laundry located at the same premises?

A. The Strand Family Laundry Company.

Q. Were you connected with the Strand Family Laundry Company?



A. I was their attorney.

Q. Were you connected in the capacity of a stockholder?

A. No.

Q. How long had the Strand Family Laundry conducted its laundry business at the same location prior to September of 1939?

A. About five or six years.

Q. Continuously?

A. Yes.

Q. And who were the stockholders of the Strand Family Laundry, if you know?

A. I know my brother owned fifty per cent of the shares.

Q. What is his name, please?

A. Sam H. Millman, and my uncle, Sam F. Millman, was the actual—I don't know whether the shares were in his name or not, but he was the actual owner of the other fifty per cent.

Q. Who were the directors?

A. I don't recall who they were.

Q. Who were the officers, if you recall?

A. I don't recall.

Q. Now, during the period of time—

A. (Interrupting.) I think Sam F. Millman was president, and my brother, Sam H. Millman, was secretary.

Q. Who owned the property at 2621-31 West Chicago Avenue, Chicago, Illinois, during the period of time that the Strand Family Laundry operated at this location as a laundry business?

A. Well, up until about 1937 the property was in foreclosure, and the Metropolitan Trust Company was in possession, as receiver. Some time in 1937, I believe, the Strand Family Laundry Company made a deal with the First United Finance Corporation, in which the finance company purchased the real estate, through a Master's certificate of sale, in the foreclosure case, for the benefit of the Strand Family Laundry.

Q. Just a moment, Mr. Millman. Who had foreclosed on this property?

A. The trustee, the Chicago Title and Trust Company, under a seventy-five thousand dollar mortgage.

Q. Was there a sale under this foreclosure proceeding?

A. There was.

Q. And when did this sale take place?

A. Some time in 1937, as nearly as I can recall.

Q. Prior to the time of the sale, was the Strand Family Laundry in possession of this property at 2621 West Chicago Avenue?

A. As a tenant, paying rent to the receiver.

Q. And the receiver was the Metropolitan Trust Company, is that correct?

A. Yes, sir.

Q. Prior to the sale, had you had any negotiations with the First United Finance Corporation with respect to the purchase at this sale?

A. Yes. We wanted to acquire the real estate.

Q. When you speak of "we", tell whom you mean.

A. The Strand Family Laundry Company.

Q. And who conducted the negotiations with the 46 First United Finance Corporation, that is, who on behalf of the Strand Family Laundry?

A. I did.

Q. And with whom did you discuss this matter?

A. R. W. Frieder.

Q. What is Mr. Frieder's relationship with the First United, if you know?

A. He is one of the principal stockholders, and I believe he is president.

Q. How long before April of 1937 did you first discuss this matter of purchase at this foreclosure sale?

A. Well, anyway, we only had probably one or two conversations.

Q. And where did these conversations take place?

A. At Mr. Frieder's office.

Q. Tell us the nature of these conversations, and what they related to.

A. We told him that the Strand Family Laundry Company would like to acquire the real estate, that, in our opinion, if we had about ten thousand dollars with which to make a bid, the bid might go through, and Mr. Frieder said that he would be willing to lend us that sum, taking the Master's certificate of sale as security and also a chattel mortgage on all of the personal property of the 47 corporation, subject to whatever encumbrances there might be.

Q. Was that the proposal that was made by Mr. Frieder to you?

A. Yes. We gave him two hundred dollars for his commitment in writing to that effect, and by the terms of that commitment he was to hold himself ready for a period of sixty to ninety days to make that bid on our behalf.

Q. Was this commitment reduced to writing?

A. Yes.

Mr. Topper: Will you mark these documents, for identification, as Trustee's Exhibits numbers 1-A, 1-B, 2 and 3?

(Which said documents were marked, for identification, as requested.)

Q. I show you this document marked, for identification, as Trustee's Exhibit Number 1-A, which purports to be a commitment of Frieder, on behalf of the First United Finance Corporation, to the Strand Family Laundry Company, and ask you whether or not you have seen that document before?

A. Yes, sir.

Q. I direct your attention to the signature that appears at the base, and ask you whether or not that is the signature of Sam F. Millman?

A. It is.

48 Q. You are familiar with his signature?

A. I am.

Q. You had seen him sign on various occasions prior to that time?

A. Yes, sir.

Q. Has there been any change in this document since the time of its execution?

A. No.

Q. In whose possession has this document been? Has it been in your possession since its execution?

Q. No. I believe this is the copy that was in Frieder's possession.

Q. I show you another document marked for identification as Trustee's Exhibit Number 2, which purports to be a receipt of the First United Finance Corporation for a check in the sum of one thousand dollars, signed by Irving J. Berman.

A. Irving S. Berman.

Q. Irving S. Berman, yes, and ask you whether or not you have ever seen that document before?

A. Yes, I have.

Q. Has there been any change in that document since the date of its execution?

A. No.

49 Q. In whose possession, if you know, was this document?

A. The First United Finance Corporation.

Q. I show you another document marked for identification as Trustee's Exhibit Number 3, which purports to be a letter addressed to the Strand Family Laundry Company, describing, in substance, the terms of the arrangement, and ask you whether or not you have ever seen that document before?

A. Yes. I had the original of this document in my possession. As to my answers on the other documents which you have shown me, the same applies. I had the originals of those documents.

Q. Do you know where the original of this document is?

A. I must have it somewhere in my file.

Q. Have you made any attempt to locate it?

A. I thought I brought along all papers. May I have my file there?

Q. This one (indicating)?

A. Yes. No. I don't have that. However, the copy you showed me I know is an exact carbon copy of the original document which I had.

Q. Was this sale conducted on or about April of 1937?

A. It was.

Q. And who purchased at the sale, if you know?

50 A. Mr. Frieder made the bid on our behalf, and his bid was accepted. I want to modify that. There was opposition by the attorneys for the trustee, and I think subsequently we had to increase the bid by about two thousand dollars.

Q. What was the bid price at that time?

A. The original bid price, as I remember it, was ten thousand dollars.

Q. And the bid was struck off to Mr. Frieder, was it?

A. To the First United Finance Corporation.

Q. To the First United Finance Corporation?

A. That is right.

Q. Do you know whether or not a certificate of sale, either a Special Commissioner's certificate of sale or Master's certificate, was issued?

A. Yes, sir.

Q. To whom?

A. To the First United Finance Corporation.

Q. On or about August 15, 1939 where was this Special Commissioner's certificate of sale, if you know?

A. In the possession, so far as I know, of the First United Finance Corporation.

Q. Do you know whether it at any time transferred the certificate of sale in the interim, that is, from April of 1937 to August 15, 1939?

51 A. I never had any knowledge of its having so done.

Q. Do you know whether or not a Master's deed was issued on this property or a Special Commissioner's deed?

A. I know that there was.

Q. To whom, if you know?

A. To the First United Finance Corporation.

Mr. Topper: Mark this, for identification, as Trustee's Exhibit Number 4.

(Which said document was marked, for identification, as requested.)

Q. Did the Strand Family Laundry from the time of the issuance of the Special Commissioner's certificate up until August 15, 1939 pay any funds or moneys to the First United Finance Corporation?

A. Yes, they did.

Q. What was the total amount of moneys that had been paid?

A. I am unable to answer that.

Q. Approximately?

A. Well, I imagine it was several thousand dollars.

Q. Did you or did you not receive any credit upon the obligation that then existed between you and Mr. Frieder?

A. Yes.

Q. The mortgage indebtedness was reduced correspondingly, is that correct?

52 A. Well, we had several transactions with Mr. Frieder. My recollection is that we owed him moneys on a chattel mortgage before we made this deal with him, and then, after this deal was made, we borrowed further moneys from him and executed additional chattel mortgages.

Q. On the machinery and equipment located in the Strand Family Laundry?

A. That is right.

Q. Now, were there any moneys at all that had been paid in this interim that were applied toward the debt or funds that had been advanced at the sale?

A. My recollection is that there was, because I had occasion to check the records in the Office of the Recorder of Deeds and found that an affidavit of extension of the particular chattel mortgage involved in this real estate deal had been filed by Mr. Frieder, which showed that indebtedness had been paid down by several thousand dollars.

Q. I show you a document marked, for identification, as Trustee's Exhibit Number 4, which purports to be the Master's deed issued by Gerald R. Gorman, and ask you whether or not you have seen that document before?

A. No, I have not. I saw the record of it in the Recorder's Office.

53 Q. What happened to the Strand Family Laundry in August of 1939?

A. It went into bankruptcy.

Q. Do you know the exact date?

A. No, I don't. It was toward the end of August of 1939.

Q. What was the nature of the petition? Was it voluntary or involuntary?

A. It was a voluntary petition.

Q. What, if anything, was done as far as the appointment of a receiver was concerned?

A. A receiver was appointed.

Q. And who was the receiver?

A. Maurice Klein.

Q. Was there a sale conducted?

A. There was a sale, yes, sir.

Q. And when was that sale?

A. I don't recall exactly. It was the latter part of August or the early part of September.

Q. Prior to the time of this sale in August of 1939, did you have any dealings with a man by the name of Maurice Ginsburg?

A. Yes, I did.

Q. How do you spell his name?

A. G-i-n-s-b-u-r-g.

Q. And his first name?

A. M-a-u-r-i-c-e.

Q. Where is he located, if you know?

54 A. His place of business is at 2200 North Western Avenue. I am not sure of his residence address.

Q. What was his relationship to this bankruptcy proceeding of the Strand Family Laundry?

A. I asked Mr. Ginsburg to bid for the assets at the sale.

Q. On whose behalf did you make this request?



A. Well, I was interested in keeping my people in business.

Q. The people you refer to are whom?

A. The Millmans.

Q. The Millmans at that time were the stockholders and owners, were they not, of the Strand Family Laundry?

A. Yes.

Q. Is that correct?

A. That is right.

Q. Now, tell me what deal, if any, was made at that time and what were the negotiations directed toward?

A. Well, they were very brief. I told him that the Strand Family Laundry was in bankruptcy and that the assets were going to be sold, and that I would like to have him advance the moneys there and bid at the sale.

Q. What did he say in reply to that?

A. He said: "O. K."

Q. And this conversation took place some time in between August 15, 1939 and the latter part of August, 55 the time of the sale, is that correct?

A. That is right.

Q. Did he at that time discuss the maximum amount of moneys that he would advance to you for the purchase of these assets?

A. I told him that I thought a bid in the neighborhood of four thousand dollars might go through, and that was agreeable to him.

Q. Did you at that time discuss the nature, that is, the form of security that he would take for this loan?

A. There wasn't any discussion as to that at all. He left that all to me.

Q. You at that time represented the Strand Family Laundry, did you not?

A. Yes.

Q. Did you represent Ginsburg at that time as well?

A. Yes. Ginsburg is a very personal friend of mine, and a client of mine.

Q. Tell us something, Mr. Millman, about the personal property, that is, the routes and machinery and equipment that was held or located at the place of business at 2621 West Chicago Avenue on or about August 15, 1939. How many routes were there? Let us start with the routes first.

A. My knowledge as to that is necessarily vague.  
56 I never had any close contact with the operation of the plant.

Q. Who had close contact with that?

A. My uncle, Sam F. Millman, and my brother, Sam H. Millman.

Q. Do you know the approximate number of routes at that time?

A. Oh, twenty to twenty-five.

Q. And the approximate number of customers that each route had?

A. Well, I would guess that their business was in the neighborhood of three thousand dollars a week.

Q. Have you any idea as to the extent and nature of the machinery and equipment that was at these premises?

A. Well, some. You mean as to the amount in dollars? Well, now, they had two or three mangles and a lot of presses. I wouldn't want to hazard a guess. Twenty or thirty or forty. They had about twenty-five or thirty washing machines. These are all guesses.

Q. I would prefer that you not guess.

A. The answer is: I don't know.

Q. As to the number of trucks, do you know that?

A. No, I don't. There was a truck for every route, and possibly one or two old spare trucks.

Q. In your discussions with Mr. Ginsburg prior to 57 the sale, was there any arrangement as to who was to take title to these interests that had been purchased or that would be purchased?

A. Well, I just told him that he would be amply secured, because the bid would be made in his name and he would hold title to it until some definite arrangements were made with him.

Q. Was there any discussion at that time with respect to the creation of a new corporation?

A. Well, I didn't discuss that with him. He was not concerned about that. He left everything to me.

Q. And it was within a week after that that this Gold Medal Laundries was created, is that correct?

A. That is right.

Q. Before whom was this sale conducted?

A. Referee Streeter.

Q. Were you present at the time of the sale?

A. I was.

Q. Were there any representations made to Referee Streeter with respect to the purchaser and the manner in which he was to accept title?

A. Well, I don't know just what you mean. As to the form of the bill of sale?

Q. No. As to who was going to bid and why he was 58. going to bid?

A. Well, we stated to the Court that we wanted a bill of sale to issue in the names of Maurice Ginsburg and Max Heiman.

Q. Did you make the representation to Referee Streeter that Mr. Ginsburg was buying it on behalf of the Strand Family Laundry, which was to be reorganized?

A. The intimation was very clearly made to the Court that the persons connected with the old corporation as principals were interested in the bid.

Q. Was there any representation made to Referee Streeter that a new organization was to be created to accept the title from Mr. Ginsburg?

A. Not that I recall.

Q. After the creation of the corporation, that is, I am referring to the Gold Medal, was there any resolution adopted with respect to the arrangement with Mr. Ginsburg?

A. There was not.

Mr. Topper: Mark this, for identification, as Trustee's Exhibit 5.

(Which said document was marked for identification, as requested).

Q. What was your relationship to the Gold Medal after its creation? Did you continue as its attorney?

A. Yes, sir.

59 Q. I show you a document marked for identification, as Trustee's Exhibit Number 5, which purports to be a resolution of the Gold Medal Laundries, indicating the character of the transaction with Mr. Ginsburg, and ask you whether or not the signature affixed at the base is the signature of R. Kordine, the secretary of the Gold Medal Laundries?

A. I don't know.

Q. Have you ever seen the signature of R. Kordine before?

A. I have.

Q. R. Kordine is a girl, is she not?

A. Yes.

Q. Is she related to you?

A. Yes, sir. She is my cousin.

Q. And you cannot identify that signature?

A. Well, I can't be sure about it.

Q. You have never seen it before?

A. I have seen her signature before, but I retain no recollection as to its form.

Q. Have you ever seen that particular resolution?

A. I prepared this document.

Q. Have you seen that document since you prepared it?

A. I have not.

Q. Has there been any change in that document since you last saw it?

A. No.

60 Q. That document bears a seal. Whose seal is that?

A. That is the seal of the Gold Medal Laundries.

Q. Mr. Millman—

A. (Interrupting.) I would like to explain that document.

Q. Go right ahead.

A. Originally we were going to give Mr. Ginsburg—that is, I was trying to formulate some plan of securing Mr. Ginsburg and arranging for a transfer of his interests to the corporation, and that resolution was prepared in contemplation of that. My idea then was to give Mr. Ginsburg a chattel mortgage on all of the property, subject to first liens to the First United Finance Corporation, the Zephyr Laundry Machinery Company and several other secured creditors. Now, that contemplated that we would be able—I mean the Gold Medal Laundries would be able to make a deal with the Zephyr Laundry Machinery Company and with the First United Finance Corporation and with other secured creditors for the acquisition of their properties, that is, on an installment payment basis, and for them to take back chattel mortgages, in which case we would be in a position to give Mr. Ginsburg some security for his note, which security is referred to in that proposed resolution.

Q. This proposed chattel mortgage and this document then refers to a conveyance or transfer back to the corporation, is that right?

61 A. If we had been placed in a position to handle the transaction in that manner.

Q. Were you then placed in such a position?

A. As to the enactment of the resolution, actually, it never was enacted. It was never executed. It was never passed at any shareholders meeting or at any directors

meeting, because before the corporation could take action to enact that we began to have trouble with Mr. Frieder, and it became apparent that Mr. Frieder would not go along with the Gold Medal Laundries. He began to demand his money, so I proposed to Mr. Ginsburg that we just simply leave the situation in status quo, that he retain the trustee's bill of sale to the assets that he had purchased until such time as he would get back his money, at which time I told him we would take a bill of sale from him to the corporation.

Q. In this transaction whom did you represent? The Gold Medal?

A. Well, I was representing both parties. My prime concern was Mr. Ginsburg.

Q. This document shows that a resolution was adopted at a meeting of the corporation on the 11th day of September, 1939. You say that was not so?

A. No. I don't know who obtained that signature. I know definitely that I had never asked the secretary to execute that document. I delivered that document in blank to Mr. Arnopolin.

Q. Was this arrangement with Mr. Ginsburg after the Gold Medal had been created reduced to writing?

A. No.

Q. What was the arrangement made with respect to repayment of the amount Mr. Ginsburg advanced at the sale? By the way, before you answer that, may I ask you this first: How much did he advance at the sale?

A. He advanced around four thousand dollars.

Q. Was that the total amount that he advanced at that time?

A. That is correct.

Q. Did he make any payment of prior wage claims subsequent to the sale or at the time of the sale?

A. He did not. If there was any payment made, he didn't advance the money for it.

Q. What arrangement was made with respect to repayment of these funds that had been advanced by Mr. Ginsburg?

A. The arrangement just simply was that he was to get sixty dollars a week as rent for the use of the equipment, and when rent equal to sixty-one hundred dollars should have been paid, he would execute a bill of sale to the corporation.

Q. And in the event of default, what was the arrangement?

63 A. Well, I never discussed that with him, because I knew, so far as he was concerned, there would not be any default. If the corporation wouldn't pay him, I would.

Q. The assets that were acquired by Mr. Ginsburg at the receiver's sale were used by the Gold Medal since its creation, is that right?

A. Right.

Q. Have you had occasion during the lifetime of the Gold Medal Laundries to examine the books and records? Have you?

A. Of the Gold Medal Laundries?

Q. Yes?

A. I never examined them.

Q. Have you ever examined a balance sheet of the Gold Medal Laundries?

A. I never have.

Mr. Topper: Mark this, for identification, as Trustee's Exhibit Number 6.

(Which said document was marked, for identification, as requested.)

Q. Who was in charge of supervision of the books and records of the Gold Medal?

A. You mean who was their auditor?

Q. Who was their auditor or who was their accountant?

A. Mr. Schwartz.

64 Q. What is his first name?

A. Joe Schwartz.

Q. Was he the only one in charge of these books?

A. Yes, so far as I know.

Q. Who took care of the daily entries into these books?

A. They had a bookkeeper there. I think it was Louis

O. Millman.

Q. Did your brother, Sam H. Millman, have anything to do with keeping the books and records of the Gold Medal Laundries?

A. So far as I know, he had duties which prevented his doing so.

Q. He is an accountant, is he not?

A. Yes. He is a certified public accountant.

Q. I ask you to examine Trustee's Exhibit Number 6.



and ask you whether or not you have ever seen that document?

A. I have not.

Q. Do you know whether or not the land and improvements at 2621 West Chicago Avenue, together with the machinery and equipment, were carried on the books and records of Gold Medal as their property?

A. I don't know.

Q. How much was paid under this contract with Mr. Ginsburg?

A. Well, he was getting sixty dollars a week until 65 he was fully paid off in a lump by Mr. Harry Koplin.

Q. When did Mr. Koplin purchase the interest of Mr. Ginsburg?

A. Well, Mr. Koplin had contracted to purchase his interest in a written agreement dated March 6, 1940. The actual sale took place some time in June of 1940.

Q. At the time of the sale in June of 1940 to Mr. Koplin by Mr. Ginsburg, was the Gold Medal Laundries in default of the sixty dollar weekly installments?

A. They were not.

Q. Was there any covenant or promise that had been violated or that the Gold Medal was in default of up to the time of the sale to Harry Koplin?

A. So far as Mr. Ginsburg was concerned?

Q. That is right.

A. No.

Q. At the time of the sale, the amount of the purchase price was computed in what manner? By that I mean were the amounts Gold Medal had paid under this contract credited to the purchase price of Harry Koplin?

A. They were. Mr. Ginsburg had given Mr. Koplin a commitment in writing some time prior to March 6, 1940, in which Mr. Ginsburg offered to sell to Mr. Koplin, if Mr. Koplin would enter into a certain agreement with Gold Medal Laundries, the interest which he might have 66 acquired from the trustee in bankruptcy, whatever that interest was, and, as part of that proposal, Mr. Koplin agreed that he would accept a certain amount, which represented the excess over the sixty dollar weekly payments made—that sum and the difference between sixty-one hundred dollars—and also stated in his proposal that whatever payments the laundry had made to Mr. Ginsburg in the interim would be applied to the purchase price.

Q. Did you represent Mr. Ginsburg in that sale to Mr. Koplin?

A. Well, I handled the whole thing. Ginsburg had nothing to do with it.

Q. Were these payments made by the Gold Medal credited to the purchase price Harry Koplin paid to Mr. Ginsburg for these assets?

A. Yes.

Q. They were?

A. Yes, sir.

Mr. Topper: Will you mark this document for identification, as Trustee's Exhibit Number 7?

(Which said document was marked, for identification, as requested.)

Q. At the time of the sale on August 30, 1939—I am referring now to the receiver's sale in the bankruptcy proceeding of the Strand Family Laundry—there was 67 still outstanding, was there not, the Special Commissioner's certificate of sale to the real estate which was held by the First United Finance Corporation?

A. That is correct.

Q. All of the machinery and equipment of the Strand Family Laundry were subject to conditional sales contracts and chattel mortgages?

A. That is right.

Q. In the bankruptcy proceedings, was any of this machinery repossessed under reclamation proceedings?

A. I remember definitely the Zephyr Laundry Machinery Company had filed a reclamation petition. Whether any order was entered on the petition, I don't know.

Q. The receiver sold merely his equity in this machinery and equipment?

A. Yes. The receiver sold whatever right, title and interest he had.

Q. Harry Keplin at that time was operating what company, if you know?

A. The Zephyr Laundry Machinery Company.

Q. Were they a conditional sales vendor on August 30, 1939, of the Strand Family Laundry?

A. They were.

Q. To what extent?

68 A. Approximately twenty-five thousand dollars.

Q. Will you name other conditional vendors?

A. The Huebsch Machinery Company.

Q. And the amount of their indebtedness?

A. I don't know. And the Prosperity Laundry Machinery Company.

Q. Around two thousand dollars?

A. I don't know. And they owed some moneys on trucks. The amount I don't know, and there were probably other secured creditors.

Q. I show you a document, marked, for identification, as Trustee's Exhibit Number 7, which purports to be a letter addressed to Arthur S. Kaplan. Here is a copy of the letter, and I ask you whether or not you have seen that document before?

A. Yes.

Q. Does that indicate the terms of this proposal that Mr. Ginsburg was making to Mr. Harry Koplin?

A. This is an exact copy of the commitment that I referred to before.

Q. When was the last time that you saw that document, Mr. Millman?

A. You mean the original of that?

Q. Yes.

A. When I gave it to Arthur Kaplan.

69 Q. When was that?

A. Approximately on the date it bears.

Q. Has there been any change in this document since you last saw it?

A. No.

Q. That relates to the terms of the proposed transaction between Mr. Harry Koplin and Mr. Ginsburg, is that correct?

A. That is right.

Q. And that purchase or sale was conditioned on a larger contract to be entered into at a subsequent date, is that correct?

A. That is correct.

Mr. Topper: This larger contract that you refer to I will ask to have marked, for identification, Trustee's Exhibit 8, and mark this, for identification, Trustee's Exhibit 9.

(Which said documents were marked, for identification, as requested.)

Q. Was this sale to Mr. Koplin by Mr. Ginsburg reduced to writing?

A. Yes.

Q. Have you a copy or the original of that contract?

A. I have a copy.

Q. May I have that, please? The exact date of this sale was June 12, 1940, is that correct?

A. Well, approximately the date that it bears.

70 Q. And the original is in the possession of Mr. Koplin, is that correct?

A. It was delivered to Arthur Kaplan.

Q. And Arthur Kaplan is whom?

A. He is Mr. Koplin's attorney.

Q. What relationship does Mr. Arthur Kaplan bear to Harry Koplin?

A. Well, I understand that he is related by marriage in some manner. I am not sure.

Q. On June 12, 1940 or prior to that time did Mr. Ginsburg ever serve notice upon the Gold Medal or make any demand of any kind with respect to this contract that he had had with the Gold Medal?

A. Ginsburg?

A. That is right.

A. No.

Q. There was no reason for any demand at that time, is that correct?

A. There were no defaults in the arrangement. As a matter of fact, there were frequent occasions when the laundry did not have the money to make the weekly payments and my brother or I advanced the money and took it back afterwards.

Q. Did you have any negotiations with Harry Koplin prior to the creation of the Gold Medal Laundries and during the bankruptcy proceeding of the Strand Family Laundry?

71 A. No, I did not.

Q. Did you have any dealings with Mr. Harry Koplin on or about November of 1939 with respect to refinancing the entire corporation? That is the Gold Medal I am referring to now.

A. Yes.

Q. And did those negotiations culminate in a contract or written agreement?

A. They did.

Q. I direct your attention to a document marked, for identification, as Trustee's Exhibit 8, which purports to be a commitment for a loan, addressed to the Gold Medal

Laundries, Inc., signed by Harry Koplin, and ask you whether or not you have ever seen that document?

A. I have.

Q. Have you ever seen Mr. Koplin's signature?

A. Yes.

Q. Is that his signature?

A. Yes, it is.

Q. Has there been any change in this document since you last saw it, Mr. Millman?

A. No.

Q. In whose possession was this document when you last saw it?

A. It was in my possession until this morning, when I gave it to you.

72 Q. Did Mr. Koplin perform any of the covenants or promises contained in this contract?

A. He executed the agreement, the terms of which were substantially along the lines outlined in this commitment.

Q. The contract that you now refer to is that document marked, for identification, as Trustee's Exhibit Number 9, is it?

A. It is, yes, sir.

Q. And on the last page it bears the signatures of the parties. Do you know their signatures? Are you familiar with their signatures?

A. Yes.

Q. Are they the signatures of the parties that they purport to be?

A. They are.

Q. Has there been any change in this document since you last saw it?

A. There has not.

Q. In whose possession was it when you last saw it?

A. It was in my possession until this morning, when I gave it to you.

Q. Do you know whether or not Mr. Koplin has performed any of the covenants or promises incorporated in this contract which is marked, for identification, as Trustee's Exhibit Number 9?

73 A. I know one covenant that he performed, and that was to pay Mr. Ginsburg the balance due him. I know he also entered into an agreement with the First United Finance Corporation, as required by the terms of that agreement, to acquire their interest. Whether he

made any deals afterwards with the other secured creditors, as required by the terms of that agreement, I don't know. I know he also caused a corporation to be organized, which is one of the requirements of that agreement.

Mr. Topper: Mark this document, for identification, as Trustee's Exhibit Number 10.

(Which said document was marked, for identification, as requested.)

Q. Trustee's Exhibit Number 10, for identification, purports to be a receipt signed by Arthur Kaplan?

A. Yes.

Q. Showing the receipt of all the issued capital stock of the Gold Medal Laundries on March 6, 1940, and I ask you whether or not that is the signature of Arthur Kaplan?

A. It is, and that, too, was in conformity with the provisions of the agreement.

Q. This stock was delivered on the date this receipt bears; is that right?

A. Yes, sir.

74 Q. Do you know that as a matter of fact?

A. It was delivered on the date it bears.

Q. Was there any other outstanding issued capital stock of the Gold Medal Laundries?

A. There was not.

Q. On June 12, 1940 was this stock still in the possession of Arthur Kaplan?

A. I have no knowledge as to that.

Q. Has the stock ever been returned by Arthur Kaplan to the Gold Medal Laundries?

A. So far as I know, it has not.

Q. Has it ever been returned to Samuel H. Millman? Has any part of that stock been returned to him?

A. It has not.

Q. Has any part of that stock been returned to Samuel F. Millman?

A. So far as I know, it has not.

Q. So far as you know, there has been no return of the stock to any of the stockholders, is that correct?

A. That is right.

Q. And that was the situation on June 12, 1940, at the time of this deal between Ginsburg and Harry Koplin, is that right?

A. That is right.



75 Q. Arthur Kaplan at that time was representing Mr. Harry Koplin, is that correct?

A. That is correct.

Q. And he purchased at that time, on behalf of Harry Koplin, the interest of Ginsburg?

A. Well, he purchased pursuant to the terms of the agreement of March 6, 1940.

Q. I understand that, but at that time he had purchased it from Mr. Ginsburg?

A. That is correct.

Q. Do you know whether or not this corporation that you say was created by Mr. Harry Koplin after March 6, 1940 was created on or about March 20, 1940, in accordance with the terms of this contract?

A. So far as I know, it was.

Q. What was the name of this new corporation?

A. If I remember correctly, it was the Laundry Building Corporation. The Chicago Laundry Building Corporation.

Q. Mr. Millman, did you represent any of the stockholders of the Gold Medal in any sales of this stock to Harry Koplin or any one in his behalf?

A. I represented my brother in the sale of his stock.

Q. That is Samuel H.?

A. Samuel H. Millman.

Q. What were his holdings?

76 A. Well, after Mr. Koplin had entered into that agreement of March 6, 1940 with us, his interest was one-third of the total issued shares, and I represented him in the sale of his interest to Mr. Joe Feller.

Q. Who was Joe Feller, if you know?

A. Mr. Joe Feller was in the employ of Mr. Koplin.

Q. When did you first discuss the matter of this sale of this one-third of the stock?

A. The day before the sale took place, I went over to see Harry Koplin, and I told him that we were tired of the situation.

Q. What was the situation you referred to?

A. Well, our connection with the laundry company.

Q. How about the contract that had been executed on March 6, 1940?

A. That was in no manner discussed. I told him that I would thank him to buy my brother's interest, and told

I'm what I would take. It was one thousand dollars cash and two thousand dollars at twenty-five dollars a week.

Q. Where did these discussions take place?

A. In Harry Koplin's office.

Q. And where is that?

A. Somewhere on Fulton Street, in the 1800 block, I believe.

Q. Is that the office of the Zephyr Laundry Machinery Company?

A. That is correct.

Mr. Topper: Mark this Trustee's Exhibit Number 11, for identification:

(Which said document was marked, for identification, as requested.)

Q. Were those negotiations reduced to a contract?

A. They were.

Q. This document marked as Trustee's Exhibit Number 11, for identification, will you examine that, please? Have you ever seen that document before?

A. Yes, I have.

Q. This is the contract with respect to the purchase of the stock of Samuel H. Millman, your brother, is that correct?

A. Yes, sir. That is correct.

Q. The stock that is referred to is the capital stock of the Gold Medal Laundries, is that correct?

A. That is right.

Q. Did you have any negotiations with Joe Feller at any time?

A. No.

Q. Was Joe Feller present at the time of the signing of this contract?

A. I am not sure. I rather think he was. In fact, I would say that he was present.

18 Q. How much was paid at that time, if anything, under this contract?

A. As stated in the contract, one thousand dollars.

Q. And how was that paid?

A. By a check of the Zephyr Laundry Machinery Company.

Q. Was that signed by Mr. Harry Koplin?

A. I don't recall. I think it was.

Q. Do you know whether or not the payments there-after have been made?

A. Yes. They have been made.

Q. And by whom?

A. By the laundry company.

Q. Have these checks been sent to Samuel H. Millman or did Samuel H. Millman pick them up there, if you know?

A. The checks have, in the main, been sent to me, payable to my brother.

Q. The laundry company you refer to is the Zephyr Laundry Machinery Company, is that correct?

A. No. The laundry on Chicago Avenue.

Q. I see. Has the total amount of money been paid? That is, the total amount of the purchase price?

A. It has not.

Q. What is still due and unpaid?

A. Roughly, about three hundred dollars.

Q. And this stock is where at the present time?

79 A. Well, we have never seen any stock after I turned all of the shares over to Mr. Kaplan at the time the agreement of March 6, 1940, was entered into.

Q. Do you know whether or not Harry Koplin had purchased any other shares of stock of the Gold Medal prior to June 12, 1940?

A. No, except that he was entitled to the outright ownership of one-third of the shares of stock upon the execution of the agreement of March 6, 1940. That was part of the consideration for the deal.

Q. Samuel F. Millman had one-third, that is, a one-third share of the stock, did he not?

A. No. His son, Sidney Millman, was the actual shareholder.

Q. Do you know whether or not there had been any purchase by Harry Koplin of Sidney Millman's stock?

A. So far as I know, there had not.

Q. So that on June 12, 1940, all this stock was deposited with Arthur Kaplan, is that right?

A. On March 6, 1940, I turned all of the shares over to Arthur Kaplan, and I have never seen them since.

Q. What, if anything, happened with respect to the possession of the Gold Medal property located at 2621-31 West Chicago Avenue in June of 1940?

80 A. So far as I know, all of the property remained on the premises.

Q. Did the Gold Medal continue its operations after June 12, 1940?

A. It did, to my knowledge, for about two weeks, and after about two weeks I heard some rumor or report. As a matter of fact, I had received a telegram out in the country from my brother, advising me that some kind of a foreclosure took place at the Gold Medal Laundries. I couldn't make very much intelligence out of that telegram, and the first thing Monday morning I went over to the laundry company to find out what the situation was. I talked with my uncle, Sam F. Millman, and he said he had heard a conversation between Mr. Arthur Kaplan and somebody from the Government, in which Mr. Kaplan had told the Government that Harry Koplin or the Zephyr Laundry Machinery Company or somebody had foreclosed on some chattel mortgages.

Q. With reference to the books and records of the Gold Medal, did Mr. Arthur Kaplan at any time receive any of the books and records of this corporation?

A. I turned over to him everything belonging to the corporation which was in my possession, and that consisted of the minute book.

The Court: What happened to the books and records that pertained to the routes, the customers and the operation of the laundry?

The Witness: Well, all of the books and records were on the premises.

The Court: What is that?

The Witness: All of the books and records were on the laundry premises when we severed our connection with it.

The Court: In all the negotiations wherever the name Ginsburg was mentioned, were you his counsel?

The Witness: Yes, sir.

The Court: He had no other attorney?

The Witness: No.

The Court: What was the interest of Max Heiman, whose name has been mentioned?

The Witness: Well, actually he didn't have any interest. He put up no money.

Mr. Topper: Q. Mr. Millman, just one more question. Will you identify this document, which purports to be a receipt for the minute book, signed by Arthur Kaplan? Mark that Trustee's Exhibit Number 12, for identification.

(Which said document was marked, for identification, as requested.)

Q. I ask you whether or not you have ever seen that instrument, Mr. Milman?

82 A. Yes.

Q. That has been in your possession, has it not?

A. Until this morning.

Q. There hasn't been any change in that document since you received it?

A. No.

Q. Has this minute book ever been returned to you?

A. It has not.

Q. Has it ever been returned to the Gold Medal Laundries, if you know?

A. I have no knowledge as to what happened to it after I turned it over to Mr. Kaplan.

The Court: Were you compensated for your services by Mr. Ginsburg?

The Witness: I represent Mr. Ginsburg on a retainer fee basis.

The Court: An annual retainer?

The Witness: Yes. I don't remember whether I made a separate charge in this connection or not. I have on occasions been paid separate fees for separate services.

The Court: Were you compensated by your uncle or your brother for the services that you rendered to them?

The Witness: I was getting a retainer of about thirty dollars a month, which I collected weekly because of  
83 their difficulty in making payments.

The Court: Were you ever confronted with any serious problems by reason of your representing conflicting interests?

The Witness: There wasn't any conflict of interest, because my uncle, my cousin Sidney Millman, his son, and my brother understood my first loyalty was to Mr. Ginsburg. As a matter of fact, my position was, and they all knew it, that if they didn't pay him, I would.

The Court: Was the amount bid at the sale before Referee Streeter three thousand dollars?

Mr. Topper: Three thousand dollars, subject to prior wage claims.

The Court: What was the amount of the wage claims?

Mr. Topper: About one thousand dollars.

The Witness: Well, whatever the amount was that Mr. Ginsburg gave—I thought it was four thousand dollars—it might have been thirty-five hundred dollars—there were

a few hundred dollars over and above that which were used for reorganization expenses.

The Court: The bids were made returnable before Referee Streeter in open court?

The Witness: Yes, sir.

The Court: Was there competitive bidding?

84 The Witness: Yes, there was.

The Court: Anything further?

Mr. Topper: Nothing further.

The Court: Do you want to cross-examine now, or do you want to adjourn until this afternoon?

Mr. Rosenfield: I would appreciate an adjournment, your Honor.

The Witness: Do you want me to come back?

The Court: Oh, yes. You will have to come back. Can you come back this afternoon, at two-fifteen?

Mr. Turner: I represent the First United. I have a matter set elsewhere, and I will not be able to be back this afternoon.

The Court: Well, you will come back at the next hearing, then. The First United is involved in this to a considerable extent, and you will come back. Did I give you another date? I don't think I did.

Mr. Topper: You haven't yet.

Mr. Turner: I would suggest you make it next week, your Honor.

The Court: I will make it next Tuesday, at the same time, ten-thirty.

Mr. Topper: Very well.

(Witness excused.)

85 The Court: We will adjourn until two-fifteen, gentlemen. You are to return on the 20th, at ten-thirty A. M.

Mr. Turner: It will not be necessary for me to be here this afternoon?

The Court: No.

Mr. Turner: Thank you.

Whereupon an adjournment was here taken to the hour of two-fifteen o'clock P. M., same day, January 13, 1942.



86

BEFORE REFEREE IN BANKRUPTCY

ARCHIE H. COHEN.

January 13, 1942,

2:15 o'clock P. M.

(Caption—76517)

Court re-convened in the above entitled cause, at the hour of two-fifteen o'clock P. M., January 13, 1942, pursuant to adjournment heretofore taken herein.

Present:

Mr. Russell J. Topper, appearing on behalf of Harry W. Cline, trustee, and petitioning creditors.

Mr. Ben Rosenfield and Mr. Arthur S. Kaplan, appearing on behalf of respondents.

Mr. Eli Herman, appearing on behalf of creditor.

87 ROBERT J. MILLMAN, was recalled as a witness, having been heretofore duly sworn, and being cross-examined by Mr. Rosenfield, testified as follow:

Q. Mr. Millman, you told us the incorporators of the Gold Medal Laundries were Mr. Arnopolin, Ruth Kordine and S. Kostman. Who was Mr. Arnopolin?

A. He is the gentleman sitting there in the second row (indicating).

Q. How long have you known him?

A. About four years.

Q. At the time the Strand Family Laundry was in existence, did Mr. Arnopolin have any connection with the laundry?

A. He handled our insurance.

Q. At the time the Gold Medal Laundries was incorporated, what was Mr. Arnopolin's position with respect to the laundry?

A. Well, he agreed to act as front man for the corporation.

Q. He was a creditor of the bankrupt corporation, was he not?

A. Yes, he was.

Q. To what extent?

A. I don't know.

88 Q. Did he perform any active duties on behalf of the Gold Medal Laundries from the time of its organization?

A. Yes, he did.

Q. What were those duties?

A. Well, mainly in connection with the bank. He helped them obtain loans from time to time, and discount notes.

Q. Did he have anything to do with the active operation of the laundry himself, with the management and control of the laundry business, as such?

A. No.

Q. What did Mr. Arnopolin receive or what was he to receive for his assistance to the laundry?

A. Well, he got a note from the corporation, which was to compensate him for his services.

Q. What was the amount of that note?

A. I think it was thirty-one hundred dollars, if I am not mistaken.

Q. What were the terms of the note, do you know?

A. I don't recall.

Q. Did Mr. Arnopolin put any cash into the Gold Metal Laundries?

A. So far as I know, he did not, except that he did arrange loans of various amounts, several hundred dollars, from time to time. Whether he had on occasions advanced any personal funds, I don't know.

89 Q. The obligation of the Gold Medal Laundries then to Arnopolin was entirely restricted to this note in the sum of three thousand dollars or thirty-one hundred dollars, as far as you know?

A. That is right.

Q. I think you told us that Miss Kordine was a relative of yours? A cousin?

A. That is right.

Q. What was her function at the office?

A. She was one of the office girls. I think she took care of the switch board.

Q. Who was S. Kostman, the other incorporator?

A. He is related to my brother remotely by marriage.

Q. At the time the corporation was formed, what was its financial position with reference to the amount of cash on hand? I am referring to the Gold Medal Laundries.

A. A few hundred dollars, I believe.

Q. Where was that obtained from?

A. I think out of the moneys I got from Ginsburg for that bid there was a surplusage, and that I turned over to the corporation to assist it in its refinancing.

Q. Did Arnopolin pay for the stock that was issued to him, Mr. Millman?

90 A. No.

Q. I didn't get that answer?

A. No.

Q. What was the weekly payroll of the Gold Medal Laundry Company while it was in business?

A. I am not sure. It would just be a guess, if I were to attempt to answer.

Q. What were the payments that were required to be made to the First United Finance Corporation from the Gold Medal Laundries?

A. Well, that is the thing that presented the great difficulty. I was unable to make any deal with the First United Finance for the Gold Medal Laundries. They were pressing for the payment of all of their money. The balance due them was approximately twenty thousand dollars.

Q. Now, besides the twenty thousand dollars due the First United, what other amounts were owing, and to whom?

A. We owed about twenty-five thousand dollars to the Zephyr Laundry Machinery Company. The obligations aside from that I am not accurately aware of.

Q. Did you at any time apprise yourself in round numbers of the total obligations of the Gold Medal Laundry Company?

A. I never examined any financial statements or records, but from what they told me, my impression was that they were in the neighborhood of sixty or seventy  
91 thousand dollars.

Q. You represented the Gold Medal Laundries, as attorney, is that right?

A. Correct.

Q. Had you represented Mr. Arnopolin prior to the time he became an officer of the Gold Medal Laundries?

A. I had not.

Q. What connection did Samuel H. Millman and Samuel F. Millman have with the Gold Medal Laundries?

A. Well, my brother—

Q. (Interrupting.) That is Samuel F?

A. Samuel H.

Q. Samuel H. Millman?

A. Yes. He was an actual shareholder.

Q. To what extent?

A. Fifty per cent.

Q. Yes?

A. And Samuel F. Millman, that is, his son, was a fifty per cent shareholder.

Q. You are referring now to the Gold Medal Laundries?

A. That is correct.

Q. These various Millmans I related to you, one is your uncle and one is your brother?

A. That is correct.

Q. What did the fifty per cent of the stock amount to in dollars and cents, or the holdings that represented each of their interests in the stock?

92 A. I don't remember what the face amount of the issue of capital shares was. I think it was one thousand dollars, if I am not mistaken.

Q. The total issue of stock was one thousand dollars?

A. That is my recollection. It might have been more than that.

Q. How much did Samuel H. Millman contribute to that and how much did Samuel F. Millman contribute to that?

A. Well, there were several hundred dollars deposited.

Q. You told us about that. That is the money you say was left over?

A. Yes, sir. Aside from that, there was no cash contributed.

Q. Was anything else of value given to the corporation or paid as and for the issue of its capital stock?

A. Well the theory on which I proceeded was—

Q. (Interrupting.) Just answer that question. Was anything else paid in?

A. Well, you see, the answer would be a conclusion. If you want a yes or no answer, I will say yes. The facts on which I predicate my conclusion are something else.

The Court: Well, don't sit in judgment on your answer. He said if there has to be a yes or no answer, the answer would be yes. Tell us what you considered of value.

93 The Witness: Well, I questioned the right of the corporation to acquire the property, personal and real, from Mr. Ginsburg. His interest had an excess value over the sixty-one hundred dollars which he was to receive be-

fore turning it over, and I felt that the excess value would take care of the payment of the capital stock.

Mr. Rosenfield: Q. Now, with which bank did the Gold Medal Laundries transact its business during the time of its existence?

A. I think that they part of that time dealt with a bank on Madison and Kedzie, the Merchants National Bank, and I think they also dealt with other banks, but I am not sure.

Q. Were there any other moneys other than those you have already described to us brought into the corporation or paid to the corporation for any reason whatsoever?

The Court: What corporation?

Mr. Rosenfield: The Gold Medal Laundries?

The Witness: Not that I know of.

Mr. Rosenfield: Q. I understand the total capital value of the corporation, so far as cash or cash value brought into the corporation was several hundred dollars, which you appropriated to the corporation from the surplus of funds given to you by Mr. Ginsburg?

94 A. That is right. So far as I recall, that was the only cash.

Q. I think you told us how much business the Gold Medal Laundry Company was doing per week? You said about three thousand dollars?

A. That is my impression, yes.

Q. And weekly payments were made. You already told us about one payment of sixty dollars per week that was made to Mr. Ginsburg?

A. That is correct.

Q. That payment was always made?

A. Yes.

Q. Do you know the weekly payroll there was about twenty-five hundred dollars a week?

A. I don't, no.

Q. Do you know that there was a weekly payment due the First United Finance Corporation of about two hundred dollars a week?

A. My recollection as to that was that we never got to the basis where they had agreed to accept weekly payments. I am not sure.

Q. Was any money paid to the First United Finance Corporation during the existence of the Gold Medal Laundry Company by that company?

A. So far as I can recall, my answer would be no.



95 They wanted their money in a lump sum. They didn't want to make a deal with us.

Q. As a matter of fact, the Gold Medal Laundries was in personnel and in business and in equipment and in place of location exactly the same organization as that of the Strand Family Laundry which had preceded it, is that right?

A. Well, excepting that Sidney Millman had no connection as a shareholder of the old corporation.

Q. And he did have with the new corporation?

A. Yes.

Q. He was related to which of the Millmans?

A. Sam F. Millman. He was his son.

Q. He was a stockholder in each of these corporations, the Strand Family and the Gold Medal?

A. No. He was not a stockholder in the Strand Family.

Q. Now, the purchasers at the sale of the receiver's right, title and interest in the Strand Family Laundry were Maurice Ginsburg and Max Heiman?

A. Yes.

Q. You told us who Maurice Ginsburg is. He is your client, is that correct?

A. That is right.

Q. Who is Max Heiman?

A. He was a brother-in-law, I believe, of a brother-in-law of Sam F. Millman.

96 Q. Did you represent him?

A. I did not.

Q. Did you represent him in this purchase of the right, title and interest of the receiver in the Strand Family Laundry?

A. I never saw him or had any conversation with him prior to the sale in that connection.

Q. Did he contribute any money to the purchase of these assets we have described?

A. He did not.

Q. What is Max Heiman's business?

A. I don't know.

Q. Had you ever done any business on behalf of your client, Mr. Maurice Ginsburg, with Mr. Heiman prior to this particular transaction?

A. I never did, and my client, Maurice Ginsburg, never saw Mr. Heiman and doesn't know anything about him.

Q. When the Gold Medal Laundries were incorporated



what were their assets? What did they have? What did they own at that time?

A. Well, they had no physical assets other than the cash which I have previously referred to.

Q. Can you fix the amount of that cash a little more closely for us?

97 A. Well, it might have been five or six hundred dollars.

Q. During the existence of the Gold Medal Laundry Company, did it ever acquire any physical assets?

A. To my knowledge, no.

Q. Who actually operated the Gold Medal Laundries? The two Millmans?

A. Yes.

Q. Did Gold Medal acquire any surplus cash as a result of its operation of the laundry?

A. To my knowledge, they never had any surplus cash.

Q. As a matter of fact, their debt position grew increasingly worse, didn't it, as the business progressed?

A. They were in bad shape.

Q. They were getting worse, weren't they?

A. I don't know.

Q. Isn't it a fact their salary checks were bouncing around town in the last weeks of their existence to an extent greater than they had before?

A. They bounced around in the early part of their existence, too.

Q. Isn't it a fact there was five thousand dollars overdrawn at the bank during the latter portion of their existence?

A. The overdraft mounted as time went on.

98 Q. It did increase?

A. Yes.

Q. You continued to make payments, however, to Mr. Ginsburg of sixty dollars a week?

A. That is correct.

Q. Those payments, by the way, were made by yourself, weren't they?

A. The laundry—

Q. (Interrupting.) When I say "made by yourself", I mean from laundry funds?

A. Either I or my brother.

The Court: Would you draw a check? What do you mean?

Mr. Rosenfield: I haven't followed that up. I just asked one question to develop the fact that that payment was always made every week.

Q. How was that payment made to Mr. Ginsburg? By check or cash?

A. They were rarely made with company checks, because there was danger that the check might bounce, so the procedure was to pay him in cash or else by my check or my brother's check.

Q. You are also a creditor of the Gold Medal Laundries, aren't you?

A. I have some moneys coming from them.

The Court: Have you filed a claim?

99 The Witness: Not yet.

Mr. Rosenfield: Q. This Trustee's Exhibit Number 5, which you described as a resolution drawn by you but never executed or enacted by the corporation, you told us that you delivered that to Mr. Arnopolin?

A. The original resolution—

The Court: (Interrupting.) Wait for a question.

The Witness: Pardon me. Go ahead.

Mr. Rosenfield: Q. When you delivered that to Mr. Arnopolin was it in the same condition as it is now, bearing that signature?

A. It was unsigned and unsealed.

Q. Was the meeting described in that relation ever actually held?

A. It was not, and I have the original minutes, of which this purports to be a certified copy, in my file. On the bottom of that original resolution is a space for the directors to approve, and the only signature on the line for approval is that of S. I. Arnopolin.

Q. Was that action ever taken by the corporation?

A. No, it was not.

Q. Referring back to the note that was given by the Gold Medal Laundries to S. I. Arnopolin, when was that note given with reference to the date of the organization of the Gold Medal Laundries?

A. I don't know. It was shortly after the incorporation.

Q. How soon after the corporation was formed, as far as you can remember?

A. Oh, possibly two or three or four weeks.

Q. Was that note given in payment of his services in

fronting for the corporation for its incorporation or was it in contemplation of services to be rendered in the future?

A. Partially for services rendered up to that point, and also for benefits which the corporation contemplated receiving.

Q. And that was by way of loans that Mr. Arnopolin was going to make for the corporation?

A. Mr. Arnopolin rendered very valuable assistance in that manner. In many cases—well, almost every week, from week to week, they didn't have moneys with which to meet the payroll, and he arranged with his bank to give them the money, and he would guarantee it. Then, on occasions he would pay that personally and get reimbursement from the corporation afterwards.

Q. But the Gold Medal Laundry Company is not indebted to S. I. Arnopolin for any other reason or on account of any other obligation other than this note?

101 A. That is correct.

Q. Did the Gold Medal Laundry Company write its insurance with Mr. Arnopolin?

A. I believe they did.

Q. Were those premiums paid?

A. So far as I know, he was paid. Whether there was anything owing to him for insurance, I don't know.

Q. Whose idea was it for Mr. Arnopolin to become a subscriber to the stock? Was that his idea or was that your idea?

A. It was not his proposal. It was our proposal to him. We thought that—

Q. (Interrupting.) Do you represent Mr. Arnopolin?

A. No, I do not.

Q. Did you at any time represent him, as an attorney, Mr. Millman?

A. I did not.

Q. To what extent was he a creditor of the defunct Strand Family Laundry?

A. I don't know.

Q. Is it a fact that he was a creditor of the Strand Family Laundry?

A. I am sure he was.

Q. Would you hazard a guess, as you have on some  
102 of the other facts, as to the extent—

Mr. Topper: (Interrupting.) That is objected to, and I ask it be stricken.

The Court: Let him finish the question.

Mr. Rosenfield: Q. (Continuing.) —of the obligation?

The Court: The objection will be sustained. Strike it out.

Mr. Rosenfield: That is all. Thank you very much.

Mr. Topper: Just a minute, Mr. Millman.

*Redirect Examination by Mr. Topper.*

Q. On September 7, 1939, the corporation was organized, and shortly thereafter you entered into a contract with Mr. Ginsburg, did you not? That is, on behalf of the Gold Medal Laundries?

The Court: What year was that?

Mr. Topper: 1939. September of 1939.

The Witness: No, Sir.

Mr. Topper: Q. At what time did the Gold Medal enter into an agreement with Mr. Ginsburg with reference to the interest that Mr. Ginsburg had purchased from the receiver in bankruptcy of the Strand Family Laundry?

A. I told him at the time we got the money from him that we were paying him sixty dollars a week.

103 Q. Was that arrangement entered into prior to the time of the sale or after the creation of the corporation? I am referring now to the Gold Medal corporation.

A. He understood at the time we got the money that he would get sixty dollars a week.

Q. He understood that at what time? When was that?

A. When I talked with him about getting that money to bid at the sale.

Q. That was prior to the sale, is that correct?

A. Yes.

Q. The arrangement made at that time was that the corporation was to repay him sixty dollars weekly in satisfaction of sixty-one hundred dollars advanced on your behalf, is that correct?

A. Yes.

Q. Or, rather, four thousand dollars advanced on your behalf?

A. It was not—yes. I think the sixty-one hundred dollars was agreed upon at that time.

Q. And that contract included routes, did it not, the same routes that the Strand Family Laundry had up until the time of the bankruptcy, is that correct?

A. I had no discussion with Mr. Ginsburg about any routes.

Q. Did you have any discussion with Mr. Ginsburg, 104 as to the subject matter of this contract?

A. Nothing outside of what I have testified to.

Q. Didn't he know what he had purchased from the receiver? You represented him at that time, did you not?

A. Yes.

Q. Did he know what he had purchased from the receiver at that time?

Mr. Rosenfield: I will object to that question, if your Honor please.

The Court: The objection is sustained.

Mr. Topper: May I have the order in connection with the receiver's sale?

Q. The machinery and equipment that the Strand Family Laundry had at the time of its bankruptcy, was that on the premises on September 7, 1939, the premises located at 2621 West Chicago Avenue?

A. It was.

Q. And was the same machinery and equipment on the premises on June 14, 1940?

A. To my knowledge, it was.

Q. Was there any new equipment purchased by the Gold Medal in that period from September of 1939 up until June 14, 1940?

A. I don't know. If there was, it didn't amount to much.

105 Q. Do you know what a softener is?

A. Yes.

Q. Do you know what a heat reclaimer is?

A. Yes, sir.

Q. Do you know whether or not there was a heat reclaimer on the premises on September 7, 1939?

A. There was.

Q. Who was that purchased by?

A. That had been on the premises since the building was constructed, as far as I know.

Q. How about the softener? Was that on the premises on September 7, 1939?

A. Yes.

Q. Was either the softener or heat reclaimer subject to a chattel mortgage or conditional sales contract, or were they clear?



A. I am not sure as to whether they were included in any of the mortgages executed by the Strand Family Laundry or not.

Q. And on June 14, 1940 the same softener and heat reclaimer were on the premises, is that correct?

A. That is correct.

Q. During that period of time, from September 7, 1939 until June of 1940, was there any increase in the 106 number of routes or the number of customers?

A. I don't know.

Q. How many routes did you have on June 14, 1940? When I say "you", I refer to the Gold Medal Laundries.

A. I would guess about twenty-five.

Q. That would total how many customers?

A. I haven't any idea.

Q. In your direct examination this morning, Mr. Millman, I think you referred to the approximate number of routes as twenty. Was it twenty you were referring to as of September, 1939?

A. I said twenty or twenty-five. I wasn't sure as to the number.

Q. And you don't know whether there has been any increase in the customers' list over that period of time?

A. I don't know.

Q. On June 14, 1940 did any of the conditional sales vendors or chattel mortgagees repossess their property?

A. On June 14?

Q. That is right.

A. So far as I know, nobody repossessed.

Q. Did the First United Finance Corporation serve any notice upon you for possession of the premises at 2621 West Chicago Avenue. Again when I refer to you, I mean 107 the Gold Medal Laundries.

A. To my knowledge, they did not, no, sir.

Q. Was any demand made upon you by the First United or any one on their behalf for possession of these premises on or before June 14, 1940?

A. No.

Q. Was any demand or notice for possession of these premises served upon you at any time after June 14, 1940?

A. After June 14, 1940 I no longer had any connection with it.

Q. And you don't know whether or not there has been any repossession of the machinery and equipment under the conditional sales contracts?



A. I do not.

Q. Or chattel mortgages?

A. I do not.

Mr. Topper: That is all, Mr. Millman.

Mr. Rosenfield: Just pardon me. I will make it short.

*Recross Examination by Mr. Rosenfield.*

Q. The premises at 2621 to 2631 West Chicago Avenue housed a laundry, is that correct?

A. That is right.

Q. They do today, they did last year and they did five or eight years ago?

108 A. That is correct.

Q. Has that building ever been occupied for any other purpose whatsoever from the time the Strand Family Laundry opened a laundry in that building?

A. No.

Q. Isn't it a fact that building was specially built for the purpose of housing a laundry?

A. That is right.

Q. Isn't it a fact the heat reclaimer and water softener are built into the building and are a part of it?

A. They are pretty substantially affixed. The heat reclaimer is an item which is quite a few feet beneath the surface of the ground level, and the water softeners are very large, and could not be removed from the premises without disrupting part of the wall.

Q. The heat reclaimer and water softener are there for the special purpose of serving the laundry for which that building is specially constructed, is that right?

A. I don't know whether they are fitted or any other purpose or not.

Q. But they are fitted for laundry purposes?

A. Yes.

Mr. Rosenfield: That is all.

Mr. Topper: Mark this Trustee's Exhibit 13, for 109 identification.

(Which said document was marked, for identification, as requested.)

*Reredirect Examination by Mr. Topper.*

Q. I show you a document marked, for identification, as Trustee's Exhibit 13, which purports to be a bill of sale from Maurice Klein, receiver, to Maurice Ginsburg and

Max Heiman, and ask you whether or not you have ever seen that document before?

A. Yes.

Q. Is that document now in the same condition as it was at the time you first saw it?

A. It is.

Q. And when did you first see it?

A. On or about September of 1939.

Q. There are no other documents in connection with the purchase of these assets, are there? That is, the assets referred to and described and incorporated in this bill of sale?

A. No. That is a copy of the trustee's bill of sale, and is the only document which was executed in that connection.

Mr. Topper: Mark this Trustee's Exhibit Number 14, for identificatoin.

110 (Which said document was marked, for identification, as requested.)

Q. Are you familiar with the signature of Mr. Maurice Ginsburg?

A. Yes, I am.

Q. I show you a document, which is marked, for identification, as Trustee's Exhibit Number 14, which purports to be both a power of attorney and bill of sale from Maurice Ginsburg to the Chicago Laundry Building Corporation.

A. Yes.

Q. That signature that appears at the base of that document, is that the signature of Maurice Ginsburg?

A. That is the signaturg of Maurice Ginsburg, by his brother.

Q. What is his brother's name?

A. Edward A. Ginsburg.

Q. And the power of attorney that appears on the face of that instrument—

A. (Interrupting.) That is the signature of Maurice Ginsburg.

Q. And your name is affixed at the base of that, is it not?

A. That is right.

Q. As a notary?

A. Yes.

111 Q. You certified as to the correctness of that signature, is that correct?

A. That is right.

Mr. Topper: That is all, Mr. Millman.

*Examination by the Court.*

Q. Mr. Millman, you fixed June of 1940 as the date that you no longer had anything to do with this particular laundry?

A. That is right.

Q. What brought about the severance of your relationship?

A. That was the time when my brother sold his interest to Mr. Feller.

Q. Who is Mr. Feller?

A. A man that worked for Mr. Koplin.

Q. Wasn't that pursuant to a prior arrangement?

A. No.

Q. That you negotiated?

A. The sale took place the morning following the afternoon on which I first discussed this with Mr. Koplin.

Q. Does Mr. Ginsburg know anything at all, so far as you understand, about the details of the transaction in which his name is used and his alleged funds are used?

A. Nothing except what I told you about. He lied fully upon me.

Q. Did you reveal to him fully all of the details of the transaction, letting him know how you proposed to handle it and what you proposed to do at the sale and how you proposed to get the title? Did you explain that to him?

A. I told him that the bill of sale would run to him and Mr. Heiman.

Q. Is he in the laundry business?

A. No, he is not.

Q. You say you don't know this Max Heiman, and you never met him?

A. Oh, I know him and met him, but not in connection with this transaction.

Q. Have you any idea why his name is used, together with Mr. Ginsburg's? Whose suggestion was that?

A. Well, that was Mr. Zarovsky's suggestion.

Q. That Mr. Heiman was to watch Mr. Ginsburg? He put no money in it?

A. No. I didn't know what the purpose of it was, and I wasn't concerned, as I knew it would not make any difference to us. All we were concerned about was getting back our money.

Q. What was the amount of the liabilities of the Strand Family Laundry Company?

113 A. In the neighborhood of seventy-five thousand dollars.

Q. Well, wasn't that evidenced by a mortgage on the property? Wasn't there a real estate mortgage?

A. No. That is besides that.

Q. Was that to general unsecured creditors?

A. Well, mostly secured creditors on personal property sales contracts.

Q. And there was also a balance due on a mortgage on the real estate?

A. No. That mortgage was liquidated by Mr. Frieder in the First United transaction.

Q. Did that take up that mortgage on the real estate?

A. Yes. That loan was for the purpose of acquiring the real estate at the foreclosure sale.

Q. That is the sale where you picked up the Master's certificate?

A. That is right.

Q. So that eventually through your counsel and advice it was hoped to get back the title to this property free and clear of the lien of the mortgage?

A. That is correct.

Q. And for a consideration which would be much less than the actual amount of the indebtedness? Three thousand dollars for the business and about fifteen thousand  
114 sand dollars or twelve thousand dollars for the certificate, is that right?

A. You are referring to the transaction with Mr. Ginsburg or with Mr. Frieder? That was twelve thousand dollars, and, with their finance charges, it came up to about seventeen thousand dollars, which we felt was a pretty good deal.

The Court: All right. That is all.

Mr. Topper: That is, a Special Commissioner's certificate was to be held as security for the repayment of this loan?

The Witness: That is right.

Mr. Rosenfield: I want to make inquiry as to who Mr. Zarovsky is.

Mr. Topper: We will put him on.

Mr. Rosenfield: Is he here?

Mr. Topper: Yes. Take the stand, Mr. Zarovsky.  
(Witness excused.)

115 JOSEPH ZAROVSKY was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Will you state your name, please?

A. Joseph Zarovsky.

Q. And what is your address?

A. 3352 West Evergreen.

Q. Chicago?

A. Chicago.

Q. What is your business or occupation?

A. Laundry supplies and machinery.

Q. Have you got your own establishment?

A. Yes, sir.

Q. Located where?

A. Blue Cross Chemical Company. At 4610 Race.

Q. What did you say the name was?

A. Blue Cross Chemical Company. Snow White Bleach Company.

Q. Are you familiar with the Gold Medal Laundries?

A. Yes, sir.

Q. Were you familiar with the Strand Family Laundry Company?

A. Yes, sir.

Q. Do you know Robert Millman?

A. Yes, sir.

Q. Do you know Samuel F. Millman?

A. Yes, sir.

116 Q. What relationship does Samuel F. Millman bear to you?

A. He is a brother-in-law.

Q. Do you know Samuel H. Millman?

A. Yes, sir.

Q. What relationship does he bear to you?

A. He is a cousin.

Q. And the same is true as far as Robert Millman is concerned, is that correct?

A. Yes, sir.

Q. Were you a creditor of the Strand Family Laundry Company prior to August 15, 1939?

A. Yes, sir.

Q. For how much?



A. About two thousand dollars.

Q. Were you secured?

A. No, sir.

Q. The nature of your indebtedness was what?

A. Merchandise delivered, and some cash.

Q. Did you have any other relationship with the Strand Family Laundry than creditor?

A. Yes, sir.

Q. Prior to August 15, 1939, had you had any discussions with one Mr. Harry Koplin?

A. Yes, sir; occasionally.

Q. Is this the gentleman (indicating)?

117 A. Yes, sir.

Q. Who is Mr. Koplin?

A. Mr. Harry Koplin.

Q. What is his business?

A. He is in the laundry machinery business.

Q. At that time he was connected with what organization?

A. The Zephyr Laundry Company.

Q. What is the complete name, if you know? Is that the Zephyr Laundry Company or Zephyr Laundry Machinery Company?

The Court: Let us not waste any time. We have it already.

Mr. Topper: Q. At that time did you have any discussion with Mr. Koplin with respect to the Strand Family Laundry bankruptcy?

A. Yes, sir.

Q. With respect to the sale which was to be conducted by the receiver?

A. With respect to the sale of the receiver? I don't know. I don't think so.

Q. Had you any discussion with Mr. Harry Koplin at Brown's Restaurant in Chicago, Illinois, with respect to the purchase of the assets of the Strand Family Laundry?

A. No. We discussed the general conditions and all the transaction, but nothing with reference to the actual sale.

118 Q. At that time what did the discussion relate to?

A. Well, I talked to Mr. Koplin and told him the whole deal is a very poor deal, that eventually everybody will wind up with nothing.

Q. The deal you referred to was what?



A. To acquire the laundry, the Strand Family Laundry.

Q. Was that the one in which Mr. Maurice Ginsburg was involved?

A. That is right.

Q. And the deal that you spoke of was in connection with the purchase by Mr. Ginsburg at the receiver's sale?

A. No.

Q. What was it in connection with?

A. At that time they were negotiating the deal for months before the bankruptcy. Mr. Koplin and the laundry made all kinds of deals and transactions and contracts, which I opposed. I advised my brother-in-law and I also told Mr. Koplin not to go into it, because he will lose his money and my brother-in-law will be out of it.

Q. This conversation or discussion that you refer to took place when?

A. It was along those lines. I think it was prior to the sale.

Q. Were you present before Referee Streeter at 119 the time of the sale?

A. Yes, sir.

Q. And at that time were any representations made to Referee Streeter with respect to the purchase by Mr. Ginsburg?

A. Yes, sir.

Q. Did you make the representations to the Referee?

A. No. Mike Gesas did. You see, when a bid was made, Maurice Klein asked: "Who are the buyers?" Max Heiman and Ginsburg were mentioned. Mike Gesas was a lawyer representing the laundry at the time, in conjunction with Robert Millman. They asked as to who the people were and why they were buying it. He explained they are buying it for the Millmans, that laundry, and they are just dummies, so to speak. Mike Gesas made that representation to the Referee, at the time, that it was being bought for the Millmans.

Q. Were there any representations made at that time with respect to the creation of a corporation to accept the transfer of the assets from the dummies, Mr. Ginsburg and Mr. Heiman?

A. I don't recollect whether there were or not.

Q. Did you have anything to do with the organization of the Gold Medal Laundries?

A. Well, in what respect?

Q. With respect to the incorporation?

120 A. We discussed it.

The Court: Did you suggest the name "Gold Medal"?

The Witness: I think we did discuss it. If I am not mistaken, Millman suggested that name, because it was a nice name and they used that name prior to that. They had the same name.

Mr. Topper: Q. They had reserved that name, hadn't they, some time before that?

A. Beg pardon?

Q. They had reserved that name with the Secretary of State some time before that?

A. That is right.

Q. After the corporation was organized, do you know whether or not Mr. Koplin knew of the arrangements that had been made between Gold Medal and Mr. Ginsburg?

Mr. Reenfield: I object to that.

The Court: Yes. The objection is sustained, unless Mr. Koplin acknowledged that he knew.

Mr. Topper: Q. Had you any conversation with Mr. Koplin after the organization of the Gold Medal, with respect to the assets that had been purchased by Mr. Ginsburg?

A. Yes.

Q. When was the first time you had discussed it with him, and where was it?

121 A. I wouldn't remember when it was. I remember we had one discussion at the sale at the Gold Medal Laundry.

Q. Fix the time, approximately, will you, Mr. Zarovsky? What part of the year?

A. It was in the fall, I think.

Q. Of 1939?

A. I don't remember.

Q. It was how many months after the organization of the corporation?

A. A few months.

Q. Tell us what was said at that time.

A. Mr. Koplin wasn't satisfied with the transaction that he made. He found he was losing a lot of money. In fact, I made a settlement with him at that time for Mr. Millman, my brother-in-law, for a certain amount of money.

Mr. Koplin says to me: "As a matter of fact, I don't have to give him a cent. He isn't entitled to anything. I am just giving it to him because I am a good fellow, because Ginsburg is the one that owns everything, and I don't have to give him anything. I am simply giving him some money because I am a good fellow, because the deal didn't go through."

Q. I am asking now for what Mr. Koplin said with respect to the holdings of Mr. Ginsburg and the arrangement

Mr. Ginsburg had entered into with Gold Medal. Did 122 Mr. Koplin mention anything about that?

A. Well, we discussed it generally. I don't remember anything in particular.

Q. Do you know whether or not Mr. Koplin examined the books and records of the Gold Medal at any time after its organization?

A. Mr. Koplin personally?

Q. Mr. Harry Koplin.

A. I don't know.

Q. Did Mr. Koplin ever discuss with you the condition of the books and records of the corporation?

A. Yes. We discussed it once or twice.

Q. Did you ever make an examination of these books and records?

A. Not directly. I knew a lot about what was going on, but I never examined the books.

Q. Do you know what machinery and equipment was on the premises on September 7, 1939?

A. Yes.

Q. Will you tell us what was there?

A. Well, to begin with the boiler room, there was a big boiler, a two hundred and fifty horse power boiler, and a one hundred and seventy-five horse power boiler, and two water softeners. In the garage there was a cleaner, and then we go to the press room. There must have been 123 about thirty-five to forty presses and two mangles and about fifteen washers and two extractors and shafts and pipes and pulleys, and so forth.

Q. Do you know how many trucks they had in September of 1939?

A. You mean—

Q. (Interrupting.) How many trucks for drivers?

A. About twenty-eight.

Q. Do you know what machinery and equipment was on the premises in June of 1940?

A. No.

Q. When was the last time that you were there?

A. About a month after Mr. Koplin paid up the Millmans.

Q. I didn't get that last part?

A. A month after Mr. Koplin paid up the Millmans.

Q. Paid up the Millmans?

A. The last time he paid up my brother-in-law, after that I was there once a month after that.

Q. When was the last payment that was made to your brother-in-law?

A. Well, not exactly the payment. The transaction he had with Mr. Millman.

Q. When was that?

A. He made a contract for his interest and paid 124 him up in cash and notes.

Q. The interest you speak of was what? His stock interest?

A. No. He didn't have any stock.

Q. Samuel F. Millman didn't have any stock?

A. No, I don't think he had stock. As I explained to you before, I met Koplin at the sale and discussed the general situation, and he made me a deal. I said: "What is it going to be?" He said: "I will give your brother-in-law so much money and let him go, and I will keep everything." At that particular time they did not make a deal. My brother-in-law did not accept it, but a month or so later they did make a deal.

Q. What did your brother-in-law offer to sell to Mr. Koplin?

A. I guess—

• The Court (Interrupting.) Do you know? Where you there at the time they talked?

The Witness: I was the one that talked to Mr. Koplin about the transaction originally. I wasn't there the second time, when they made the transaction.

Mr. Topper: Q. The first time, what was offered that belonged to Mr. Samuel F. Millman? What was offered 125 for sale by Mr. Millman?

Mr. Rosenfield: If you know. I object, if your Honor please.

Mr. Topper: He testified he was present at the first conversation.

Mr. Rosenfield: Ask him first whether he knows.

The Court: Yes. I will sustain the objection.

Mr. Topper: Q. At the time of the first meeting with Mr. Koplin with respect to the sale of Samuel F. Millman's interest, what discussion was had as to what interest was offered for sale? Tell us what each party said.

A. Officially Millman had one-third of the stock, that is, Millman and his son had one-third of the stock. At that time he actually didn't own anything.

The Court: Mr. Topper is asking you what the conversation was that you had there, if you were present. If you were not present, just say that you were not present.

The Witness: I had a conversation with Mr. Koplin.

The Court: Was your brother-in-law present?

The Witness: No. The meeting I had with Mr. Koplin was at the Gold Medal Laundry, at the sale of the laundry machinery. Mr. Koplin was the one who approached me. He says he has discussed the whole matter, and I said: "Why don't you straighten it out?" He says: "What shall I do?" I says: "Pay off my brother-in-law."

126 He says: "How much?" and I says: "Five thousand dollars." Mr. Koplin says: "No. I will give him thirty-five hundred dollars, and I will stay there. I think we will make a deal." I called up my brother-in-law, and he didn't want to accept it. Now, we didn't discuss—

The Court: (Interrupting.) You don't know what final agreement was made between your brother-in-law and Koplin, do you?

The Witness: You mean if I was present? I wasn't present.

The Court: You were not present?

The Witness: No.

The Court: All you know is what some one told you, is that right?

The Witness: That is right.

The Court: Who told you?

Mr. Topper: Q. Did Mr. Koplin tell you?

A. Yes, and my brother-in-law told me, and the Millmans. We discussed it.

The Court: All right.

Mr. Topper: Q. Do you know how many routes there were in September of 1939, that the Gold Medal had?

A. Twenty or twenty-one routes.

Q. And what was the total number of customers?

127 A. You can't determine that in a laundry.

Q. How much did these routes produce weekly gross?



A. About thirty-four to thirty-five hundred dollars.

Q. Do you know whether or not in June of 1940 the same number of routes were had by the Gold Medal Laundries?

A. I don't know.

Q. Up to what time do you know what fixtures and machinery were on the premises and what routes were had by the Gold Medal?

A. It must have been some time in May. April or May.

Q. Of 1940?

A. Of 1940.

Q. Do you know whether or not Gold Medal had paid the sum of sixty dollars weekly to Maurice Ginsburg?

A. Yes, I do.

Q. Do you know the total amount of payments that had been made by the Gold Medal to Mr. Ginsburg?

A. The total amount of money up to what time?

Q. Up to June 14, 1940.

A. No. About thirty-five or thirty-six hundred dollars, I think.

Mr. Rosenfield: I object to the answer.

The Court: Let it stand.

Mr. Topper: Q. Was there any default made by Gold Medal in the payment of these sixty dollar weekly payments?

128 A. No, sir.

Q. In November of 1939 did you and Mr. Koplin have any discussion with respect to refinancing the entire Gold Medal organization?

A. Yes, sir.

Q. Where did these discussions take place, if you know or can recall?

A. Let's see. I met Mr. Koplin a couple of times in his office and once we met I think on Madison Street and in a restaurant.

Q. In your first meeting tell us what you said and what he said with respect to refinancing this corporation.

Mr. Rosenfield: I object, unless he can fix the time. I don't know what time he is referring to.

The Court: Fix the time.

The Witness: I am not in any position to fix the time.

Mr. Topper: I directed his attention to November of 1939, and he said he had these discussions at that time.

The Witness: It would be prior to that.



The Court: The one in November that Mr. Topper is talking about, is that the first? You said it was prior.

The Witness: A few months prior to that.

Mr. Topper: Q. A few months prior?

A. Yes, sir.

129 Q. And where did that first meeting take place?

A. The first meeting I had with Mr. Koplin was in the laundry. That is, at one particular time I met Mr. Koplin in the laundry, and I told him I took up with Mr. Frieder certain matters with reference to the financing and conditions that could be worked out, and so forth and so on.

Q. What did Mr. Koplin say to you at that time?

A. Mr. Koplin said he would agree to take up the mortgage and invest all the money to pay off all liabilities of the Strand Family Laundry.

Q. You mean the Gold Medal?

A. No. That was prior to the bankruptcy.

Q. Prior to the bankruptcy?

A. Yes.

Q. When you refer to the laundry, you mean the Zephyr Laundry Machinery Company on Fulton Street?

A. Beg pardon?

Mr. Topper: Will you read the question?

(Whereupon the question was here read by the reporter.)

The Witness: No. At the laundry at 2621 West Chicago Avenue.

Mr. Topper: Q. Did you have any discussion with 130 Mr. Koplin after the organization of the Gold Medal Laundries with respect to its refinancing?

A. No.

Q. Did you and Mr. Koplin have any discussion with respect to a contract to be executed or that was executed in March of 1940?

Mr. Rosenfield: I object to that question. It was answered by the answer to the previous question that he did not have any conversation with Mr. Koplin with respect to that.

Mr. Topper: The witness' recollection may be exhausted.

The Court: If he wants to change his answer, he may do so.

Mr. Topper: Q. Will you examine this document—

The Court: (Interrupting.) Do you withdraw your question?

Mr. Topper: I will withdraw the question.

Q. Will you examine this document marked, for identification, as Trustee's Exhibit Number 9?

A. That is a long thing to read.

Q. Glance through it and tell me whether you have even seen that contract.

A. Yes. I saw this. I saw it after it was written.

131 The Court: There is no question pending. The question was just whether you saw it, and you say you did.

Mr. Topper: Q. Did you have any discussion with Mr. Harry Koplin prior to the time of this contract?

A. No.

Q. With respect to the contents of this contract?

A. Beg pardon?

Q. With respect to the subject matter of this contract? You say you have never had any conversations with him?

A. Yes, we had some conversations. We had some conversations, but I don't know which one you are referring to.

Q. I am referring to the first conversation you had with him with respect to the subject matter of this contract of March 6, 1940?

A. Yes. We had a conversation in the laundry.

Q. That is, at 2621 West Chicago Avenue?

A. That is right.

Q. What did you say to him, and what did he say to you at that time?

Mr. Rosenfield: I object to that. I want the time fixed.

Mr. Topper: Q. How long before March of 1940 was this conversation?

A. I wouldn't be able to fix the time. It was quite  
132 a bit before, but I wouldn't be able to fix the time.

Q. Approximately how many months or weeks?

A. You say before March of 1940?

Q. Yes.

A. It must have been a few months before it, I believe.

Q. Tell us what you said and what he said.

A. I said that that contract is no good, that eventually the Millmans will be out of there and the creditors will lose their money and Mr. Koplin will also lose some money there.

Q. What did Mr. Koplin say to that?

A. He said he doesn't fear it, that he has enough money to lose.

Q. Did you at any time in the year 1940—withdraw that. Did Mr. Koplin at any time tell you that he had a purchaser in Georgia for this business of the Gold Medal?

Mr. Rosenfield: I object to the question, and ask that counsel be directed—

The Court: (Interrupting.) It is leading and suggestive. Is that your objection?

Mr. Rosenfield: The answer is included in the question, obviously. It is very leading.

The Court: I will sustain the objection.

133 Mr. Rosenfield: I only make the objection to the form of the question, because we have been very liberal.

The Court: I will sustain it.

Mr. Topper: Q. Had you any discussions with Mr. Koplin in the year 1940 with respect to a purchaser for the business of the Gold Medal?

A. That was in 1939.

Q. When in 1939?

A. It must have been about June or July. It was in the middle of the summer, and Mr. Koplin says that he—

Mr. Rosenfield: (Interrupting.) Just a moment. I object to the latter part of the answer, and ask that it be stricken. There is no question to which that is a response.

The Court: Sustained.

Mr. Topper: Q. Tell us what Mr. Koplin said to you and what you said to Mr. Koplin?

A. Mr. Koplin said there was somebody from the south, who has a lot of laundries in the south, who would like to get in the west, and this would be the proper laundry for him, and he said—he used these words: "I will make a big man out of your brother-in-law if we go into this transaction."

Q. Did Mr. Koplin again mention this purchaser after this conversation you had with him?

A. I beg your pardon?

134 Q. Did he again mention this purchaser to you?

A. No.

Mr. Topper: That is all, Mr. Zarovsky.

The Court: Any cross-examination?

Mr. Rosenfield: None.

The Court: Are you a creditor of the Gold Medal Laundries?

The Witness: Yes, sir.

The Court: For how much?

The Witness: Originally it was two thousand dollars, but Mr. Koplin agreed to pay seven hundred and fifty dollars.

The Court: It was what originally?

The Witness: Originally I was a creditor for two thousand dollars.

The Court: Have you filed a claim here yet?

The Witness: No, unless you filed one.

Mr. Rosenfield: I think he is a petitioning creditor.

The Witness: Pardon me. A claim was filed.

The Court: All right.

(Witness Excused.)

135 SAM H. MILLMAN was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Will you state your name, please?

A. Sam H. Millman.

Q. You are a brother of Robert Millman, who testified this morning, is that correct?

A. That is right.

Q. What was your relation to the Strand Family Laundry before August of 1939?

A. I was secretary and treasurer.

Q. Were you a stockholder?

A. Yes, sir.

Q. And what was the extent of your holdings?

A. Fifty per cent.

Q. Of the Strand Family Laundry, is that right?

A. That is right.

Q. Who was the other stockholder or who were the other stockholders?

A. My uncle, Mr. Samuel F. Millman.

Q. Did both of you own all the stock?

A. Yes, sir.

Q. Are you familiar with the Gold Medal Laundries?

A. Yes, sir.

136 Q. What interest did you have in the Gold Medal?

A. Well, at first I believe I had a half interest, and

after some time, in March, when the contract was entered into with Mr. Koplin, the stock was surrendered and I understand after that I had a one-third interest.

Q. In September of 1939 how much stock had been issued by the Gold Medal Laundries, if you know?

A. I don't recall. It would be a guess. My brother mentioned one thousand dollars, and that may be right.

Q. I mean, how many shares of stock?

A. That I don't recall.

Q. In September of 1939 did you know what assets the corporation had? For example, routes?

A. Yes. I knew what routes the corporation had.

Q. By the way, did you keep the books and records?

A. No, sir.

Q. Did you ever make an examination of the books and records?

A. Yes. I used to look through them.

Q. When was the last time that you saw these books and records, Mr. Millman?

A. About the last week in June of 1940.

Q. And where were they at that time?

A. In the office of the laundry, at 2621 Chicago Avenue.

137 Q. Did you take them with you at that time?

A. No, sir.

Q. When did you again see them?

A. That was the last time.

Q. Did you ever return to the premises at 2621 West Chicago Avenue?

A. Yes, sir, on one or two occasions.

Q. Did you see these books and records there?

A. No, sir.

Q. The last time you had seen them, did you turn them over to any one?

A. No, sir.

Q. Where were they in the plant at the time that you last saw them?

A. On the desk in the office.

Q. Was there any one else there at that time?

A. Yes, sir.

Q. Who?

A. There was a Mr. Pincus there, who was the book-keeper of the Zephyr Laundry Machinery Company.

Q. Mr. Pincus?



A. Yes.

Q. What is his first name?

A. I don't know.

Q. Was Mr. Harry Koplin connected with the Zephyr Laundry Machinery Company at the time that you speak of?

A. I believe he was.

Q. What is that?

A. I believe he was.

138 Q. They were a conditional sales vendor of the Gold Medal at that time, were they not? The Zephyr?

A. I don't recall what happened after the new corporation was incorporated, if we ever gave a conditional sales contract back or not.

Q. Do you know whether Harry Koplin had ever made an examination of the books and records of the Gold Medal Laundries?

A. Yes.

Q. Did he ever make an examination in your presence?

A. Yes, sir.

Q. When was the first time he did that?

A. The first and the only time I ever saw him look through them was in the spring of 1940.

Q. That would be in what month, if you can recall?

A. I don't recall. I know we all had our overcoats on, so it must have been February or March.

Q. Do you know whether or not he had any bookkeepers or accountants make an examination of these records for him?

A. The company had an auditor, that had the approval of Mr. Koplin, that used to submit statements every month, and those statements—

Q. (Interrupting.) Who was this auditor?

A. The La Salle Audit Company.

Q. Who owns the La Salle Audit Company?

139 A. Mr. Joe Schwartz. I don't know who else owns it, but he was the one we had a contact with.

Q. Schwartz had worked on the books and records from the inception?

A. That is right.

Q. Did Mr. Koplin ever discuss with you the payments of the Gold Medal to Mr. Ginsburg?

A. Yes.

Q. When was the first time you had such a discussion, and where?



A. I don't recall when the first time was, but I know the last time was the time when he looked through those books.

Q. In the spring of 1940?

A. That is right.

Q. What did he say to you and what did you say to him?

A. I believe his purpose in looking through those books was—

Mr. Rosenfield: (Interrupting.) I object to what his purpose was.

The Court: Objection sustained.

Mr. Topper: Q. Tell us what he said?

A. He asked me whether I thought the amount shown on the books as having been paid Mr. Ginsburg was 140 correct, and I told him yes, and that is all.

Q. Do you know whether or not these payments had been made weekly by the Gold Medal to Mr. Ginsburg?

A. Yes, they were.

Q. Had there been any default in the payment of these sixty dollars weekly?

A. No, sir.

Q. Had you at any time from September of 1939 to June of 1940 acquired any new machinery or equipment?

A. I don't recall.

Q. Had you at any time in the same period acquired any new trucks?

A. I believe we did buy a few trucks.

Q. About how many?

A. I don't recall. Several. Not very many. Three to five, at the most.

Q. At any time from September of 1939 until June 14, 1940 was there any removal of any of the machinery and equipment from these premises?

A. No.

Q. Was there a reduction or sale or transfer of any of the routes in the same period of time?

A. There may have been a reduction of one or two routes that we may have taken off because they didn't bring in enough business.

141 Q. But you had not sold or transferred any, is that correct?

A. That is right.

Q. What did you do, if anything, with respect to your stock holdings in the Gold Medal Laundries?

A. I don't understand the question.

Q. Did you sell your stock at any time?

A. Yes.

Q. And to whom did you sell it?

A. To Mr. Joe Feller.

Q. When was this transaction entered into?

A. If I had a calendar, I could tell. It was on a Friday, I believe, June 11 or June 12, 1940; on or about that time.

Q. Was that transaction reduced to writing?

A. I believe it was.

Q. Were you present during the negotiations for the sale of your stock holdings to Mr. Koplin?

A. No.

Mr. Rosenfield: I object to that. There was no such sale. It was to Mr. Feller.

Mr. Topper: Q. Yes. Or, rather, to Mr. Feller?

A. That is right.

Q. Was Mr. Koplin connected in any manner with this transaction?

The Court: If you know.

Mr. Topper: Q. Yes. If I know?

A. I don't know.

142 Q. Did you receive any payments under this contract?

A. Yes, sir.

Q. When did you receive your first payment?

A. I received one thousand dollars on the morning that the sale was made, and have been receiving twenty-five dollars a week since then.

Q. Your first payment was made by whom?

A. It was a check of the Zephyr Laundry Machinery Company.

Q. Was that countersigned?

A. I don't recall who signed it.

Q. Where did you receive that check?

A. In the office of the Zephyr Laundry Machinery Company.

Q. Who gave it to you?

A. I believe Mr. Koplin or Mr. Kaplan.

Q. The Mr. Kaplan you refer to is who? Arthur Kaplan?

A. That is right.

Q. Now, examine Prustee's Exhibit Number 11, for identification, Mr. Millman.

A. Yes, sir.

Q. And I ask you whether or not that is the contract that was executed by you and Joe Feller?

A. It is, yes.

Q. All these payments that you have received since the date of this contract have been made by whom?

143 A. I have been receiving a check from the Budget Launderers, 2621 West Chicago Avenue.

Q. Have you received any other checks from the Zephyr Laundry Machinery Company in payment under this contract?

A. No, sir.

Q. Have you received any payments either in cash or check directly from Mr. Harry Koplin?

A. No, sir.

Q. The total amount you had received from the Zephyr Laundry Machinery Company in payments under this contract was how much?

A. One thousand dollars.

Q. How much did Joe Feller pay you under this contract?

A. Nothing.

Q. Do you know what relationship Joe Feller bore to the Zephyr Laundry Machinery Company, or what he did?

A. I was under the impression he was an employee.

Q. Did you have any dealings directly with Joe Feller?

A. Not concerning this transaction. Pardon me. He was in the laundry a few days before this transaction that we have been discussing, but I gather now that is what he was there for.

Q. What, if anything, happened on June 12 or June 14, 1940, with respect to the possession of these premises?

144 A. I don't understand.

Q. Did you see Mr. Kaplan or Harry Koplin in June of 1940?

A. Yes.

Q. And what, if anything, did they do with respect to these premises at 2621 West Chicago Avenue?

The Court: Were you ousted, or were you told to get out?

The Witness: No. They bought my stock, and that was the end of it.

The Court: You walked out, did you?

The Witness: I remained there one week after that.

The Court: Was that pursuant to an arrangement?

The Witness: No. There was no definite arrangement.

at the time outside of a promise that I might be able to handle their account as an auditor.

The Court: You are an auditor, are you?

The Witness: Yes, sir.

The Court: A certified public accountant?

The Witness: Yes, sir.

Mr. Topper: Q. You didn't have the physical stock in your possession in June of 1940, did you?

A. No, sir, I did not.

Q. Where was this stock?

A. As far as I know, I let my brother hold the stock, and then I understand he turned it over to Mr. Kaplan when that contract was entered into in March.

145 Q. Take a look at this Trustee's Exhibit 10. Did you ever see that receipt before?

A. No, sir.

Q. Did you ever receive any of your stock from Mr. Arthur Kaplan?

A. No, sir.

Q. Do you know whether or not this stock is in his possession at the present time?

A. I do not.

Q. Did you make any of the entries in the books and records of the Gold Medal Laundries during the period of its existence?

A. I used to help the bookkeeper sometimes. When he was off, I would make the daily collection entries.

Q. Tell us what these books and records consisted of?

A. Well, there was a general ledger, in which were reflected all the assets and liabilities of the corporation and all the income and expenses for the period up to date. Then there was a general journal, in which was recorded the opening entries, and then there was a big cash journal, wherein all the daily transactions were recorded.

Q. How about the receipts and the memoranda of the laundry drivers themselves?

146 A. Those were kept by the bookkeeper, and sometimes I would help him when he would be absent or when he would fall behind.

Q. You say all these books and records were at this place around June 12, 1940?

A. That is right.

Q. Now, will you examine Trustee's Exhibit 6, for identification, and I will ask you whether or not you have seen that statement of assets and liabilities before?

A. I believe I have.

Q. Is that a true and correct statement of the assets and liabilities for the year ending March 31, 1940?

A. I couldn't vouch for it.

Q. Take a look at it.

A. I know that is what was set up on the books.

Q. Those were drawn from the books and records by Mr. Schwartz, were they not?

A. I believe they were.

Q. Was any demand made of you by the First United Finance Corporation for possession of these premises?

A. No, sir.

Q. Was any notice or demand made of you for possession of these premises by Mr. Arthur Kaplan or Mr. Harry Koplin?

A. No, sir.

147 Q. Was any demand for possession of these premises made of you by the Chicago Laundry Building Corporation?

A. No, sir.

Q. Were any notices of any kind served upon you or made upon you, either orally or in writing, by the First United Finance Corporation?

A. No, sir.

Q. By Harry Koplin or Arthur Kaplan?

A. No, sir.

Q. By the Chicago Laundry Building Corporation?

A. No, sir.

Q. Were any legal proceedings instituted against you by Harry Koplin or Arthur Kaplan?

A. No, sir.

Q. I mean against the Gold Medal Laundries?

A. No, sir.

Q. Were any legal proceedings instituted against you by the Chicago Laundry Building Corporation?

A. No, sir.

Q. When I refer to you, I mean the Gold Medal. Is your answer the same?

A. Yes, sir.

Q. Or by the First United Finance Corporation?

A. No, sir.

148 Q. On or about June 12, 1940, at the time you stepped out, Mr. Millman, was there any notice or demand made of you for the possession of all the machinery and equipment by any one?



A. No, sir.

Q. Were any proceedings instituted against the Gold Medal at that time for repossession of any of the machinery and equipment?

A. No, sir.

Mr. Topper: That is all, Mr. Millman.

The Court: Cross-examine.

*Cross-Examination by Mr. Rosenfield.*

Q. Did Gold Medal own any machinery or equipment on June 12, 1940?

Mr. Topper: That is objected to, as calling for a conclusion.

The Court: Well, if he has any knowledge, he may answer.

The Witness: I don't know. I don't know what the legal status of that was.

Mr. Rosenfield: Q. Well, how much time did you spend with Gold Medal in the laundry?

A. Oh, at first I used to spend one hundred per cent of my time, and at the end I was spending twenty per 149 cent of my time.

Q. Then you are fairly familiar with what the physical machinery and equipment was that was on the floor at the laundry?

A. Yes, sir.

Q. Did the Gold Medal own anything on that laundry floor?

Mr. Topper: That is objected to, as calling for a conclusion.

The Court: Yes.

Mr. Rosenfield: Q. Do you know?

A. I don't know.

Q. Have you had occasion to examine the books and records of the Gold Medal Laundries?

A. Yes, sir.

Q. Now, that statement that counsel showed you—what is that exhibit number?

Mr. Topper: 6.

Mr. Rosenfield: Q. I don't get your answer to that question as to whether—you say you had occasion to examine the books and records of the corporation?

A. I used to look through them from time to time.



Q. And you can recognize these items as being a reflection of items carried on the books of the corporation?

A. Yes, sir.

Q. What was your answer with reference to the 150 question as to whether this was a true and accurate account?

A. I never made an audit of those books and I never checked the accuracy of the figures, so I can't vouch for it.

Q. You don't know whether these figures are accurate or not?

A. That is right.

Q. You were a stockholder to the extent of fifty per cent of the stock of the Gold Medal?

A. Yes.

Q. How much did you pay for the stock?

A. Nothing.

Q. Did you bring any money into the corporation at all from the time of its inception until the time it ceased doing business?

A. Yes, I did.

Q. Was that by way of payments made of sixty dollars a week to Mr. Ginsburg?

A. That was part of it, and I used to advance several hundred dollars from time to time to tide them over the week sometimes.

Q. It was necessary, was it, to make advancements from time to time to the corporation?

A. Yes, it was.

Q. That was because the corporation did not have any money with which to operate, is that correct?

151 A. That is right.

Q. You heard your brother, Bob Millman, testify that all the money that was brought into that corporation was the balance, which amounted to five or six hundred dollars, money left over from the money Mr. Ginsburg had given Bob to bid with at the receiver's sale of the Strand Family Laundry?

A. That is right.

Q. And that was all the corporation started with?

A. That is right.

Q. That was the sole asset the corporation started with, this cash that was brought in at the inception of the corporation, about five or six hundred dollars?

A. That is right.

Q. The corporation didn't own or possess another thing at that time, is that right?

A. That is right.

Q. Did it, during the course of its existence, acquire by purchase or otherwise any assets or property other than that original money which was paid into the corporation?

A. It bought a few trucks and one or two small pieces of machinery.

Q. You say you bought three to five trucks?

A. Yes.

152 Q. Whom were those bought from?

A. I believe the Clark-Maple Chevrolet Company.

Q. Are they paid for?

A. No. They are paid in installments.

Q. How much was paid down on those trucks?

A. Usually nothing. Nothing.

Q. How much was paid on those trucks altogether?

A. I don't recall. The payments usually—

Q. (Interrupting.) Were those trucks obtained by Gold Medal for the purpose of taking care of additional work that had come into the laundry?

A. No, sir.

Q. Those were trucks that were obtained to replace some of those old, decrepit trucks?

A. Yes, sir.

Q. And that fleet of twenty-five to twenty-eight trucks they had, were all of those trucks in that old, decrepit condition?

A. That is right.

Q. You needed maybe twenty-five to twenty-eight new trucks, but you bought three to five, because that was all you were able to talk Clark-Maple out of, is that right?

A. No.

153 Q. What was the situation?

A. We thought we could get by with that many.

Q. You say you first saw Joe Feller when?

A. I have seen Mr. Feller many times when he was a salesman for the Zephyr Laundry Machinery Company.

Q. Did he at any time become connected with the Gold Medal Laundry Company as an employee of the Gold Medal while you were there?

A. No, sir.

Q. Do you know whether he became connected with the Gold Medal Laundry Company as an employee at any time?

A. No, sir.

Q. Did you see him around there at all during the last week that you were there?

A. Yes, sir.

Q. Was he there all day long?

A. Yes, sir. Every day.

Q. What was he doing while he was there?

A. He was working pretty hard.

Q. In the laundry?

A. Yes, sir.

Q. He was exercising supervisory capacity?

A. That is right.

Q. How long was it before you left that you first saw him there?

154 A. You mean the first time I ever met him?

Q. I am trying to fix the time at which he first began working at the laundry.

A. The Monday following the day that this transaction was completed for the sale of my stock.

Q. In other words, the Monday after you sold your stock to Joe Feller, he appeared at the laundry and took over, is that right?

A. Yes, sir.

Q. This check you received of one thousand dollars, who gave you that check? Isn't it a fact that Joe Feller gave it to you?

A. I believe it was either Mr. Arthur Kaplan or Harry Koplin.

Q. Was Joe Feller there?

A. Yes, sir. He was in the room.

Q. Isn't it a fact the check was a check made payable to Joseph E. Feller and by him endorsed to you?

A. I don't remember.

Q. We will bring that in. This examination Mr. Koplin made of the books and records of the Gold Medal Laundries, how long did that examination take?

-A. I don't know. I walked in the office one day and he was sitting at a desk looking at the account of Mr. Ginsburg, which was in the general ledger.

155 Q. And that was what you described as his examination of the books and records of the Gold Medal Laundries?

A. That was the full extent of his examination, as far as I know.

Q. Then instead of your statement being that he examined the books and records, you meant he examined the one account page which reflected the account of Mr. Ginsburg with the Gold Medal Laundries?

A. That is right.

Q. That is what you meant when you said he examined the books and records?

A. That is right.

Q. Did all the employees and laborers at the plant get paid every week?

A. Yes.

Q. Did the checks stick or did they keep bouncing around?

A. It varied up and down. Some weeks some of them bounced. The amount that bounced varied from time to time.

Q. From the time of its inception, how much did the Gold Medal accumulate in obligations?

A. I believe around ten thousand dollars in open accounts.

Q. You started with five hundred dollars and wound up minus ten thousand dollars, is that right?

156 A. That is right.

Q. And during all that time, of course, Mr. Ginsburg never missed a sixty dollar payment?

A. That is right.

Q. You and your brother saw to it that he received his sixty dollars for accommodating you originally in making the purchase?

A. That is right.

Mr. Rosenfield: That is all.

*Redirect Examination by Mr. Topper*

Q. When Joe Feller came in the week following the sale, did he come in with any one else? Did he come in with Harry Koplin or Arthur Kaplan?

A. No, sir.

Q. When did they step in?

Mr. Rosenfield: I object to that question, if the Court please.

The Court: Let him answer.

The Witness: I don't know what you mean.

Mr. Topper: Q. When did Arthur Kaplan and Harry

Koplin take over the books and records of the entire organization?

157 Mr. Rosenfield: I object to that. There has been no statement that that occurred.

Mr. Topper: He testified on direct that he turned them over to them.

The Witness: I testified I left them there. I never turned them over to anybody. They just remained there.

Mr. Topper: Q. Did any one tell you to get out?

A. No, sir.

Q. Well, you didn't return after that, did you?

A. Yes, sir.

Q. You did?

A. Yes, sir.

Q. How long had you been there after your sale?

A. Well, I thought that I might be able to handle the account.

Mr. Rosenfield: I object to what this witness thought.

The Court: Well, he stated he was there for one week following that.

Mr. Rosenfield: I object to what he thought.

The Court: Yes.

Mr. Topper: Q. Did you engage in the active operation of the business in the week following your sale?

A. No, sir.

Q. Who did conduct the business, if you know?

A. Mr. Joe Feller and Sam F. Millman.

Q. Now, in September of 1939 you testified that 158 there was just seven hundred dollars in cash in the corporation, is that right?

A. I don't recall. There was several hundred dollars.

Q. Did you know at that time there was an agreement or contract between Mr. Ginsburg and the Gold Medal?

A. I knew that there was an agreement that he was to get sixty dollars a week.

Q. Did you know it was an agreement relating to the assets that were on the premises, and the routes?

A. My understanding of the agreement was that it was supposed to—

Mr. Rosenfield: If your Honor please, pardon me.

Mr. Topper: Q. That was in existence in September of 1939?

The Court: Don't argue with your witness.

Mr. Rosenfield: I object to that.

The Court: I will sustain the objection.



Mr. Topper: Q. But there was such an agreement in September of 1939?

A. What was that agreement again, please?

Q. An agreement between Ginsburg and the Gold Medal Laundries in September of 1939 with respect to the 159 assets that had been purchased at the bankruptcy sale?

A. Yes.

Q. Was there such an agreement?

A. Yes, sir.

Q. And you knew of it?

A. Yes, sir.

Q. And each payment of sixty dollars weekly was made pursuant to that contract?

A. Yes, sir.

Q. Was there or was there not any default in payment?

A. No, sir.

Q. Who was Mr. Pincus?

A. Mr. Pincus, I believe, is one of the bookkeepers at the Zephyr Laundry Machinery Company.

Q. Did you ever talk to Mr. Pincus?

A. Not prior to the time he came over there.

Q. When was the first time you saw him?

A. When I came back a few weeks later to the laundry, in anticipation of doing some work on their books as their auditor, Mr. Pincus was there.

Q. Was that the first time you ever saw Mr. Pincus?

A. Yes, sir.

Q. Didn't Mr. Pincus make occasional examinations of these books and records of the Gold-Medal over this entire period of time?

160 Mr. Rosenfield: I object to that question. The witness has stated he only saw him once, two weeks later.

The Court: Let him answer.

The Witness: No, he did not.

Mr. Topper: Q. By whom is Mr. Joe Schwartz employed?

A. He is, I believe, one of the principals of this La Salle Audit Company.

Q. From September of 1939 up until June of 1940, was he engaged by the Gold Medal?

A. Yes, sir.

Q. In examinations of their books and records?

A. Yes, sir.



Q. Who paid him?

A. The Gold Medal Laundries.

Q. How often did he make an examination of these books and records?

A. He used to send his employee around every week to work on the books, and every month he would present a statement.

Q. To you?

A. To the company.

Q. Did he submit the statements he drew off the books and records to Harry Koplin?

A. He told us he did.

Mr. Rosenfield: I object to that, if your Honor please.

The Court: Yes. The objection is sustained.

Mr. Topper: That is all.

161

*Examination by the Court.*

Q. Mr. Millman, may I ask you: Did you open up the books of the Gold Medal Laundries?

A. No, sir.

Q. Did you remove the general ledger or the general journal or the daily cash journal from the premises?

A. No, sir.

Q. Have you any idea where they are today?

A. No, sir. I left them there when I walked out.

Q. When did you walk out? In June of 1940?

A. Yes.

Q. Did your brother, the attorney, Robert Millman, advise you with respect to whether you should stay or leave?

A. I advised them myself many months ago that if I ever should go out, I would like to get into my own profession, the accounting business.

Q. Did you consult with him in regard to leaving the laundry?

A. Yes. He knew I was going to leave.

Q. Now, did Mr. Feller walk into the place and say: "Your services are no longer required here. I am taking over"?

A. No.

Q. What were your duties at the laundry? You say at first you spent one hundred per cent of your time 162 there?

A. That is right.

Q. For how long a period did you do that?

A. Well, it tapered gradually until I was spending twenty per cent of my time.

Q. That is, you would be there one day in five towards the end?

A. Well, not that, but maybe one-fifth of every day.

Q. One hour or two hours a day?

A. That is right.

Q. What services did you render while you were there?

A. I was supposed to be in charge of sales.

Q. Did you devote yourself to that?

A. I did, to the best of my ability.

Q. You say your talents and your education are all along the accounting line?

A. That is right.

Q. Do you know anything about the laundry business at all?

A. Yes.

Q. Were you able to supervise?

A. The routes, yes.

Q. You checked the drivers' returns?

A. Yes, sir. As a matter of fact, I even used to run trucks on the routes.

163 Q. Did you verify from time to time their collections and the moneys turned in by them, to see if any money was withheld? Was that part of your duties?

A. We had a ruling the drivers had to pay a certain amount, and have a twenty dollar balance, and no more. It was C. O. D., as far as we were concerned.

Q. What did you understand you were acquiring when you went in as an owner of fifty per cent of the stock of the Gold Medal?

A. I really didn't know what I was acquiring in the way of assets, but I thought I was going to have a chance to make my living from the laundry business.

Q. But it was your brother who was handling it?

A. Yes, sir.

Q. As a matter of fact, you were grateful to him for whatever he did for you?

A. I certainly am.

Q. You didn't ask any questions, nor did you know?

A. That is right. I had implicit faith in him.

Q. Did you turn any money over to him?

A. No, sir.

Q. Were you given to understand that you were there to protect his investment and his interest?

A. No, sir. It was mine.

164 Q. It was yours?

A. Yes, sir.

Q. Well, had you any idea you were acquiring an interest in the real estate and equipment, and that all that would be paid off over a period of time?

A. We hoped to enter into agreements with our various creditors, the First United Finance and the Zephyr Laundry Machinery Company, and to be able to arrange to pay them off in weekly installments and eventually be the owners of the property.

Q. You are a certified public accountant?

A. Yes, sir.

Q. Then you will understand this question: When did the company cease to do business, the Gold Medal Laundries?

A. I don't know. They were still doing business when I left.

Q. What were its assets?

A. I really don't know exactly what their assets were. When I used to see the financial statements, I wondered whether those assets had a right to appear on them, in my own mind.

Q. For instance, the matter of real estate, you mean?

A. Yes, because we didn't make any arrangements with the First United Finance to acquire that as yet, so I don't know what right they had to put that on them.

165 Q. How about machinery and equipment?

A. I think the same thing as to the machinery and equipment. I don't know whether we received the conditional sales contract from Mr. Koplin or not.

The Court: Do you want to ask any questions?

Mr. Rosenfield: I think I am through with the witness. Just one moment. That is all.

The Court: What is your address?

The Witness: 4157 North Bernard is my residence address.

The Court: And your business address?

The Witness: 127 North Dearborn Street.

The Court: What firm are you connected with?

The Witness: I am in partnership.

The Court: What is your firm name?

The Witness: Silver, Millman & Company.

The Court: Do you have another short witness?

Mr. Topper: Yes, I think so.

(Witness excused.)

Mr. Rosenfield: May I have Mr. Koplin excused, as long as he won't be reached? He is here on a subpoena.

Mr. Topper: We will reach that next Tuesday.

The Court: That is the 20th, at ten-thirty, but you are going to use Mr. Turner first.

166 Mr. Topper: The First United first, yes.

The Court: Because he is a lawyer.

Mr. Topper: Yes.

SAMUEL F. MILLMAN, was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Will you state your name, please?

A. Samuel F. Millman.

Q. And your address, please?

A. 734 Buckingham.

Q. What is your business or occupation?

A. I am operating a tavern and liquor store now.

Q. That is at what address?

A. 3420 Broadway.

Q. Are you related to Robert Millman and Samuel H. Millman?

A. I am an uncle of theirs.

Q. Are you familiar with the Gold Medal corporation?

A. A little bit.

Q. Did you have any stock in the corporation?

A. Well, my son held the stock.

Q. What is that?

A. My son held the stock. I didn't have any.

Q. What is your son's name?

A. Sidney.

167 Q. What was the extent of your holdings or Sidney's holdings?

A. At first it was fifty per cent, and afterwards we entered into a contract with Mr. Koplin.

Q. Before you entered into the contract with Mr. Koplin—

A. (Interrupting.) It was fifty per cent of the stock.

Q. How much stock had been issued to you, in number of shares?

A. Well, I don't know. I never took care of that. Bob took care of it.

Q. Bob is whom? Robert Millman?

A. Yes, sir.

Q. He took care of your stock transaction as well, is that correct?

A. Yes, sir.

Q. When was this stock issued to you, if you know?

A. It must have been in 1939.

Q. In September?

A. Yes.

Q. September of 1939?

A. That is right.

Q. How long did you hold this stock or how long did Sidney, your son, hold this stock for you?

A. Until we entered into an agreement with Mr. Koplin, and then the stock was turned over to Arthur Kaplan.

Q. When was this agreement entered into with Mr. Koplin?

A. Some time in March of 1940.

168 Q. That is Harry Koplin you refer to?

A. That is right.

Q. When did you first discuss the matter of the sale of the stock with Mr. Koplin?

A. We had several discussions during the winter of 1940.

Q. Of 1940 or 1939?

A. It was 1940, that is correct. 1940.

Q. Allow me to refresh your recollection, Mr. Millman. The latter part of 1940, is that what you are referring to as the time?

A. It was in the beginning of 1940.

Q. Who conducted these negotiations for you? Mr. Robert Millman?

A. Robert Millman and myself.

Q. And Mr. Koplin?

A. That is right.

Q. Was Arthur Kaplan present at that time?

A. I think so.

Q. Where did this first conversation or these first dealings take place?



A. Well, we had one I remember in our office, and once we met in a restaurant on Madison and Kedzie.

Q. What, if anything, happened with respect to the delivery of your stock?

A. Well, this was after we concluded all the 169 tracts. I think it took place in the office of the First United Finance Corporation.

Q. What did you do, if anything, with your stock at that time?

A. I never held it in my possession.

Q. Did Sidney have it at that time?

A. No. Robert held it.

Q. Were you present at that time, at the First United Finance Corporation?

A. Yes, sir.

Q. What was done with your stock?

A. It was turned over to Mr. Arthur Kaplan.

Q. Is that the gentleman seated here (indicating)?

A. That is right.

Q. Whom was Arthur Kaplan representing at that time?

A. Mr. Koplin.

Q. Harry Koplin?

A. Yes, sir.

Q. Do you know what relationship they bear to one another?

A. Yes, sir.

Q. What is that?

A. They are brothers-in-law.

Q. Have you received that stock back at any time since then?

A. No, sir.

Q. Who has paid you, if anybody, for that stock?

170 A. I haven't gotten paid for the stock at all.

Q. When did this delivery take place, exactly?

A. In March of 1940.

Q. Since that time have you been connected with the Gold Medal organization?

A. I was connected until August of 1940.

Q. Until August of 1940?

A. Yes, sir.

Q. And what, if anything, happened in August of 1940, Mr. Millman?

A. Well, after my nephew sold out his interest, Mr.



Feller came in in his place, and I didn't like the set-up, and I decided to get out. I spoke to Mr. Arthur Kaplan about it, and then after negotiating back and forth, we finally came to an agreement whereby I sold—I didn't have anything to sell, but I entered into a contract not to enter into the laundry business I think for about five years, and in consideration of that I got five thousand dollars.

Q. Was that contract reduced to writing? Was that contract in writing?

A. Yes, sir.

Q. When was it entered into?

A. That was entered into I think in August of 1940.

The Court: Did you say you got five thousand dollars?

171 The Witness: Yes, sir.

The Court: You received five thousand dollars?

The Witness: Yes, sir.

Mr. Topper: Q. Who paid you that five thousand dollars?

A. I understand Mr. Harry Koplin paid that.

Q. Did you receive it or did Sidney receive it?

A. Well, I got it.

Q. How was it paid to you?

A. It was paid three thousand dollars in cash and the rest in payments of twenty-five hundred dollars a month.

Q. Three thousand dollars was paid at the time of the signing of the contract?

A. That is right.

Q. Who turned these funds over to you?

A. Mr. Arthur Kaplan.

Q. What form did that take? Was that cash or check?

A. Cash. The transaction took place at the Merchants National Bank.

Q. Was Mr. Harry Koplin there at the time?

A. No.

Q. How have you been paid since then?

A. Twenty-five dollars a week.

Q. Twenty-five dollars weekly?

A. Yes, sir.

Q. Who has been paying you that sum?

A. That has been paid to me by the Budget Laundry.

172 Q. They are located where?

A. At 2621 West Chicago Avenue.

Q. Had you been paid at any time by the Chicago Laundry Building Corporation? Had you been paid any of these weekly payments by the Chicago Laundry Building Corporation?

A. No.

Q. Do you know who the Chicago Laundry Building Corporation is?

A. That was a corporation organized since Joe Feller came into the picture.

Q. That was in what month, Mr. Millman?

A. In June of 1940.

Q. And they conducted their business where?

A. It was still conducted at 2621 West Chicago Avenue.

Q. Do you know of the Unique Cleaners?

A. Yes, sir.

Q. Where do they conduct their business?

A. Next door, at 2621 or 31.- 2621 or 33, I think.

Q. Were the Unique Cleaners in September of 1940 operating at 2621 West Chicago Avenue?

A. I don't know about that. I only know they did enter into some agreement.

Q. Did you receive any of these payments from 173 Harry Koplin direct?

A. No.

Q. When did Mr. Feller come into the business?

A. In June of 1940.

Q. Did Mr. Arthur Kaplan come into the business at the same time?

A. He used to come in.

Q. At that time?

A. Yes, sir.

Q. How often was he there?

A. Well, he used to come in once or twice a week.

Q. And Harry Koplin, how often did he come into the business?

A. Harry Koplin used to come in twice a week and Arthur Kaplan used to spend a good deal of his time there.

Q. How often? Daily?

A. I think so.

Q. How much time a day did he spend there?

A. A few hours.

Q. When did he first start spending his time at the Gold Medal Laundries?

A. In June of 1940.

Q. Tell us, Mr. Millman, what, if anything, was said by Arthur Kaplan to you on June 12 or June 14, 1940, with respect to continuing at 2621 West Chicago Avenue. Was anything said?

A. I don't think there was.

Q. Arthur Kaplan just came in at that time, is that right?

174 A. That is right.

Q. And Joe Feller came in?

A. That is right.

Q. And Harry Koplin came in?

A. That is right.

Q. Who operated the business from that point forward, Mr. Millman?

A. I was supposed to operate it with Joe Feller, until all of a sudden some change took place.

Q. All of a sudden?

A. Yes.

Q. Tell us what took place?

A. Well, they came in evidently with the idea of taking over the whole thing, and, naturally, the first couple of weeks I was in charge—that is, I was supposed to take care of the drivers and stuff like that, and after two weeks the whole thing changed. They started operating under a different name.

Q. That name was what, Mr. Millman?

A. The Gold Medal Laundry was discontinued.

Q. And the name was Chicago Laundry Building Corporation?

A. No. The Budget Laundry Company.

Q. At that time?

A. Yes.

Q. What did Arthur Kaplan do in connection with the operation of the Gold Medal Laundries from June 12 to June 14, 1940?

A. What did Mr. Arthur Kaplan do?

175 Q. Let me ask you this question, Mr. Millman:

Did you see the books and records of the Gold Medal corporation in June of 1940?

A. I don't remember.

Q. When was the last time that you made an examination of those books and records?

A. Well, I never did make an examination. We had Mr. Schwartz do that. He used to give us a monthly statement.

Q. These books and records were kept where on the premises?

A. They were kept downstairs in the office.

Q. Did you have occasion to go into this office?

A. Well, naturally, until they took possession, yes.

Q. Now, these books and records and receipts were kept in filing cabinets, were they?

A. That is right.

Q. Were they out in the open?

A. We had a big safe, and I think they were kept in the safe most of time.

Q. When was the last time you saw them out in the open or in the safe?

A. Well, I really don't remember very well. You know, the last three or four weeks before I left I knew I was out, and nothing interested me. There were certain things I didn't have to see, and so I didn't look.

176 Q. Did you take any of the books and records of the Gold Medal, when you left?

A. No.

Q. Do you know who did?

A. I had no reason to. I left everything there.

Q. Do you know who did?

A. No.

Q. Do you know whether or not Mr. Arthur Kaplan had received the books and records of the Gold Medal corporation at the time that you last were at the place of business?

A. I couldn't say that.

Q. Did you at any time see Mr. Kaplan examine these books and records in June or at any time in the summer of 1940?

A. No. I couldn't say that.

Q. Who was the last person that you saw with these books and records?

A. To tell you the truth, I don't remember.

Q. Did you see Harry Koplin examine the books and records at any time?

A. No, I don't think I did.

Q. What did Harry Koplin do when he came to this place of business in June of 1940? What did he do when he came there?

A. Well, you know, he came in and started giving orders, and he put his own help in there and put in a couple of girls in the office. That is about all.

177 Q. How many employees of the old Gold Medal did he discharge at that time, if you know?

A. Well, the first one he discharged was my son. He was the bookkeeper, and he fired him the second week.

Q. When was that?

A. That was in June of 1940. I don't remember what date exactly. It happened on a Monday morning. He went to work, and he told him he doesn't want him any more.

Q. Was Harry Koplin there at the time you arrived?

A. I don't remember whether he was there or not.

Q. But he came there?

A. Yes.

Q. Whom else did he discharge?

A. Well, I don't remember. Of course, it started with my son first.

Q. How many did he discharge altogether? Give me an idea, Mr. Millman?

A. I don't remember that. I can't say.

Q. How many new employees did he bring with him?

A. He brought in one of his girls.

Q. How many would there be?

A. He brought in one girl from his office.

Q. Any one else?

A. And he put in his bookkeeper to make out the payroll; this fellow, Mr. Pincus.

Q. What is his first name?

178 A. I don't know. He put in an accountant one day, a fellow by the name of Mr. Silvert.

Q. J. M. Silvert?

A. I don't know his first name.

Q. Go ahead.

A. That is about all.

Q. Do you know whether or not Mr. Silvert set up any books and records?

A. I think he did.

Q. Do you know whether or not Mr. Silvert examined the books and records of the Gold Medal corporation at that time?

A. No, sir. I couldn't say.

Q. Were you called in by Mr. Silvert in connection with these new books and records?

A. No. It happened on a Monday morning, the Monday preceding the Saturday when I found out the name was changed, that Mr. Silvert came in and told me—well, I don't know whether it was him or Mr. Arthur Kaplan—I had signed checks, and he told me I can no longer sign any checks.

Q. Who told you that?

A. I think Mr. Arthur Kaplan, and I understood the whole thing was changed.

Q. What happened? These customers' lists were on regular customers' plates, were they not?

A. Everything was on the premises.

179 Q. When you left?

A. Yes. Nothing was touched.

Q. Were the names on the trucks changed?

A. They bought a new fleet of trucks at that time, and they started painting them as they came in with the new name.

Q. Is it not a fact that the fleet of trucks were purchased several months after that?

A. They started working on it right away, I think.

Q. What happened to the old trucks?

A. Well, the ones that were free and clear they sold for junk.

Q. Who sold them?

A. Mr. Koplin.

Q. Mr. Harry Koplin?

A. Mr. Harry Koplin or Arthur Kaplan. I don't remember.

Q. How many of those old trucks did they sell?

A. About fifteen, I think.

Q. What was done with the balance or remainder?

A. The remainder there was a mortgage on, and they made the company take them back.

Q. Do you know whether or not they received any trade-in value or credit for what trucks they did turn in?

A. They couldn't have, because—

Q. (Interrupting.) Just a minute. Do you know?

The Court: Do you know the transaction?

The Witness: No.

180 Mr. Topper: Q. Did Mr. Koplin discuss it with you?



A. Well, I think so, at the beginning.

Q. Harry Koplin did discuss the question of the matter of the trade-in of these old trucks?

A. Yes. He didn't trade any in. I know he sold them for junk, and he made the company take the others.

Q. Did he tell you whether he received any credit?

A. I know he didn't get any credit.

Q. Did Mr. Arthur Kaplan talk to you about that transaction as well?

A. Yes.

Mr. Topper: Mark this Trustee's Exhibit Number 15, for identification.

(Which said document was marked, for identification, as requested).

Q. Will you examine Trustee's Exhibit 15, and the signatures that appear on the last page?

A. Yes.

Q. Those signatures are your signature and Mr. Arthur Kaplan's signature?

A. Yes, sir.

Q. Were there any legal proceedings that had been started against Gold Medal in June or July of 1940-

A. No, sir.

181 Q. By the First United Finance Corporation?

A. No, sir.

Q. By the Chicago Laundry Building Corporation?

A. No.

Q. By Arthur Kaplan or Harry Koplin?

A. No.

Q. Were there any demands or notices served upon the Gold Medal Laundries?

A. No, sir.

Q. Just a minute. By the Chicago Laundry Building Corporation for possession of the premises?

A. No.

Q. Were there any demands or notices served upon the Gold Medal by the First United Finance Corporation?

A. No.

Q. Were any proceedings of any kind directed towards possession of the property on the premises at 2621 West Chicago Avenue?

A. No, sir, there were not.

Mr. Topper: That is all, Mr. Millman.

Mr. Rosenfield: Just a few questions.

Q. What was your capacity or your connection with the laundry?

A. When?

Q. With the Gold Medal Laundry.

A. I was manager of the place, operating it.

Q. And you were on the payroll for how much?

A. Sixty dollars a week.

Q. Your son, Sidney, also worked at the Gold Medal Laundry?

A. Yes, sir.

Q. He was on the payroll?

A. That is right.

Q. And he was an owner of fifty per cent of the stock?

A. Yes.

Q. You had been connected with the Strand Family Laundry?

A. That is right.

Q. Up until the time it went bankrupt?

A. That is right.

Q. How long have you been in the laundry business altogether?

A. Twenty years.

Q. And that has always been around the same neighborhood, has it not?

A. We were there since 1926.

183. Q. In that one location, on West Chicago Avenue?

A. That is right.

Q. And when the Strand Family Laundry went out of business, that meant you lost everything you had in that business, is that right?

A. That is right.

Q. When the Gold Medal Laundries was formed, did you furnish any funds to the corporation?

A. No, sir.

Q. Did your son, Sidney, furnish any funds to the corporation?

A. No, sir.

Q. You heard Robert Millman and Samuel Millman, your nephews, testify that the only assets the Gold Medal had to start with was this balance of some five or six hundred dollars left over from the money Mr. Ginsburg furnished?

A. That is right.

Q. As far as you know, that is all there was belonging to the Gold Medal? All there was was this cash?

A. That is right.

Q. From the time the Gold Medal Laundries came into existence up until the time they went out of business, they had acquired, according to the other witnesses, about ten thousand dollars in obligations?

184 A. Well, I don't know the exact amount.

Q. What would you say the amount would be?

A. I do know we didn't make any money.

Q. What would you say the financial condition was at the time you left there?

A. It wasn't so very good.

Q. Was it five thousand dollars in debt?

A. Probably.

Q. Was it more than that?

A. Around that neighborhood.

Q. Between five and ten thousand dollars, would you say?

A. That is right.

Q. Did the Gold Medal Laundries acquire any property or assets of any kind from the time it was organized until the time it stopped doing business?

A. Well, only a couple of trucks, probably.

Q. Those were bought with nothing down and so much a month, on contract?

A. That is right.

Q. Those trucks were taken back by the people that had sold them?

A. Yes, sir.

Q. Now, as to the other trucks, were you present when the sale was made of the fifteen trucks for junk?

185 A. At the sale of some of them, I was.

Q. Who bought them?

A. Some junk dealer. I have forgotten his name. I remember I took him over to the garage where they were standing.

Q. You took the junk dealer over to the garage where they were standing?

A. Yes, sir.

Q. How many trucks did he buy?

A. I don't remember that. I know there were ten or twelve in the garage.

Q. Where is that garage?

A. It used to be on Damen Avenue.

Q. Damen and what?

A. About 819 Damen.

Q. Whose garage is that?

A. When we operated the laundry, we used to keep some trucks there.

Q. When you say "we", you are referring to the Strand?

A. The Gold Medal.

Q. They used to keep trucks in that garage?

A. Yes. They used to pay twenty-five dollars a month to the garage.

Q. That was a garage rented by the Gold Medal Laundries?

A. Yes.

186 Q. You went over there?

A. I went over there with the junk dealer.

Q. You and the junk dealer were there together?

A. Yes. He looked them over. I wasn't in on the transaction.

Q. Did you receive any money from the junk dealer?

A. No.

Q. Were you present when anybody else received any money from that junk dealer for those trucks? Did you see any money which went from the junk dealer to anybody for those trucks?

A. I don't remember that. If a transaction like that was done, it was not done in my presence.

Q. Isn't it a matter of fact all those trucks were taken back by the finance company?

A. No.

Q. How many trucks were taken back by the finance company?

A. About ten.

Q. Did you tell when Joe Feller got into the picture?

A. He came in in June of 1940.

Q. About what part of June?

A. I know he came in on the Saturday after my nephew was out.

Q. Was that the first part of June or the middle 187 or the last part of June?

A. It must have been about the middle of June.

Q. It must have been about the middle of June?

A. Yes.

Q. I understood you to say before that you have been in the laundry business for about twenty years?

A. That is right.

Q. And since 1926 at the Chicago Avenue address?

A. Yes.

Q. Where were you located before that?

A. I used to be on Western Avenue near Potomac.

Q. You were there how many years?

A. About seven years.

Q. You are familiar with all phases of the laundry business, are you?

A. I think so.

Q. You have done every part of the laundry business yourself?

A. That is right.

Q. You have gone out and gotten business and you know how to wash it and finish it and get it back to the customers, is that correct?

A. That is right.

Q. And as a man who has put in many years in that business, that is the business you know best, isn't it?

188 A. That is right.

Q. Did you own any part of the Gold Medal Laundries at the time you made an agreement here to stay out of the laundry business?

A. No.

Q. Was there anything in the Gold Medal Laundries that you could own?

The Court: I don't understand your question: "Is there anything in it that you could own?"

Mr. Topper: Are you talking about assets or capital stock?

The Court: Strike the question. I don't think it is intelligible.

The Witness: The books—

Mr. Rosenfield: (Interrupting.) Just a moment.

Mr. Topper: Just a moment.

Mr. Rosenfield: There is no question. I think that is all.

*Re-direct Examination by Mr. Topper.*

Q. Did Mr. Koplin or Mr. Arthur Kaplan tell you how much they had received from the junk dealer for these fifteen trucks, Mr. Millman?

189 A. No.

Mr. Topper: That is all.

(Witness Excused.)

The Court: All right, gentlemen. We will adjourn to January 20, at ten-thirty in the morning.

Mr. Topper: May we have an order permitting us to withdraw the original exhibits and supply copies in their stead?

The Court: This is understood with regard to all exhibits, that the originals may be withdrawn upon the filing of true and correct copies. Photostatic copies are perfectly all right.

Whereupon an adjournment was here taken to the hour of ten-thirty o'clock A. M., January 20, 1942.

190 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption 76517)

Court re-convened in the above entitled cause at the hour of ten-thirty o'clock, A. M., January 20, 1942, pursuant to adjournment.

Present:

Mr. Russell J. Topper, appearing on behalf of Harry W. Cline, trustee, and petitioning creditors.

Messrs. Kaplan & Rosenfield, (By Mr. Ben Rosenfield and Mr. Arthur S. Kaplan,) appearing on behalf of Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., respondents.

191 ARTHUR S. KAPLAN, having been first duly sworn, was called as a witness by the Court, examined and testified as follows:

*Cross-Examination by Mr. Topper.*

Q. Will you state your name, address and occupation?

A. Arthur S. Kaplan, officing at 188 W. Randolph Street. The occupation is attorney-at-law.



Q. Do you know Mr. Harry Koplin?

A. Yes sir, I do.

Q. What is his relationship to you, Mr. Kaplan?

A. We are brother-in-laws.

Q. Where is Harry Koplin at the present time?

A. I believe that he is out of town, the last I heard.

Q. Were you familiar with the Strand Family Laundry Corporation?

A. Only through the bankruptcy proceedings.

Q. Were those bankruptcy proceedings prior to August of 1939?

A. That is right.

Mr. Topper: Your Honor, I am not calling Mr. Kaplan as my witness, but rather under Section 21-J, as an adverse witness.

192 The Court: He has not shown himself to be adverse.

Mr. Topper: He is one of the respondents to the petition of the trustee.

The Court: All right. Call him as the Court's witness.

Mr. Topper: Q. Are you connected with the Gold Medal Laundries, Incorporated?

The Witness: A. Yes sir.

Q. What was your connection with the Gold Medal Laundries?

A. Setting up the contract between the parties.

Q. When was the contract dated?

A. March 6, 1940, I believe.

Q. And prior to that time was there any contract between yourself and your clients and the Gold Medal Laundries?

A. I believe not.

Q. Your interest in the Gold Medal Laundries was in what connection prior to August of 1939?

A. It was in connection with the Zepher Laundry and Machinery Corporation.

Q. That was owned by whom?

A. It was a corporation.

Q. Was it a corporation in August of 1939?

A. I think so—no, I believe not.

Q. At that time it was a partnership, is that right?

A. Yes sir, with Harry Koplin.

193 Q. That is, with Harry Koplin, your brother-in-law?

A. Yes, sir.

Q. How far did the corporate proceedings go?

A. There was no bid for it on the sale. There was a purchaser at the sale that made an agreement with Mr. Koplin on continuing payments, and it was left that way.

Q. I show you Trustee's Exhibit 8, for identification, which purports to be a commitment for a loan to the Gold Medal Laundries, and ask you if you prepared that contract?

A. None at all.

Q. Did you have anything at all to do with the making of that contract?

A. No sir.

Q. I show you Trustee's Exhibit 7, for identification, which purports to be a copy of a letter addressed to Mr. Arthur S. Kaplan, 188 West Randolph Street, and ask you if you have ever seen that document before?

A. Yes sir.

Q. That is a copy of the original that was sent to you?

A. Yes sir, this is it.

Q. Examine it, and tell me if it is exactly the same as the original which you have in your possession?

A. I would rather see the original. I have it here.

194 Q. When was the last time that you saw the original of the letter?

A. I think that I have it here. I can give it to you.

Mr. Topper: All right. Pull out the original of the contract too.

The Witness: All right. (Witness searching briefcase for documents.) I don't have it, but I do believe the copy is the same as the original.

Q. Did you have the original at the time of the hearing last Tuesday?

A. I believe so.

Q. Are you searching for it?

A. I can't seem to locate it.

Mr. Topper: Have you any objection to the admission of this document as a true and correct copy of the letter that was addressed to Mr. Arthur Kaplan?

Mr. Rosenfield: No, that is all right. I have no objection to your using it as the original.

Mr. Topper: I am using it as a true and correct copy, but I am not offering it at this time.

Mr. Rosenfield: That is all right.

Mr. Topper: Q. Mr. Kaplan, had you had any communication with any one prior to receiving that letter?

195. A. Yes sir. What is the date of that letter?

Q. January 23, 1940?

A. Yes sir. I have had negotiations with S. F. Millman and S. H. Millman.

Q. Were they in accord with the terms of this letter?

A. Not exactly, but it was in connection with that letter.

Q. Did you have any discussion with Mr. Ginsburg as of this letter of January 23, 1940?

A. Not directly.

Q. Who did?

A. I dealt with Mr. Millman.

Q. Who did you deal with prior to this letter of January 23, 1940?

A. The interest of Harry Koplin and the Gold Medal Laundries.

Q. You represented him?

A. Yes sir.

Q. You represented him as attorney in all of the transactions with the Gold Medal Laundries?

A. That is right.

Q. Have you the original of the contract of March 6, 1940? Off the record.

196. Mr. Topper: Q. I show you this document, which has been marked for identification as Trustee's Exhibit 9, which is the contract dated March 6, 1940, is that right?

The Witness: A. Yes sir.

Q. I now ask you to compare the copy with the original that you have in your possession, and ask you to state whether that is a true and correct copy?

A. That is an executed copy of the four sets that were made at that time.

Q. That is, Exhibit 9?

A. Yes sir.

Q. Had you any discussion with any one prior to your appearing in connection with the contract?

A. Yes, numerous.

Q. Who did you represent on this contract?

A. Harry Koplin.

Q. With whom did you deal on this contract?

A. S. H. Millman, S. F. Millman and Robert Millman.

Q. What was the first conversation that you had with any of these parties prior to March 6, 1940?

A. I believe they started sometime in September or October of 1939.

Q. And they were carried through the succeeding months?

197 A. Yes, sir.

Q. One of the documents in that negotiation was the document marked as Trustee's Exhibit 8, for identification, the commitment for the loan, was it?

A. That was done out of my presence. I did not know that it existed.

Q. Will you look at the second page and tell me if that is the signature of Harry Koplin?

A. Yes, sir, it is.

Q. Are you familiar with his signature?

A. Yes, sir, I am.

Q. Have you ever examined the document which I referred to as Trustee's Exhibit 8?

A. Yes, sir, I have.

Q. Had you examined it prior to the time the contract of March 6, 1940 was entered into?

A. I believe so.

Q. In your negotiations, prior to March 6, 1940, the parties to the contract were Maurice A. Ginsburg, Harry Koplin and yourself, is that right?

A. Yes, sir.

Q. You were the escrowee?

A. Yes, sir.

198 Q. Harry Koplin was to advance all of the money to liquidate the indebtedness, is that right?

A. He was to advance it to the corporation.

Q. It was to be a holding company?

A. Yes, sir.

Q. And known as the Laundry Building Company?

A. Yes, sir.

Q. This also related to the furnishings of the new company?

A. Yes, sir.

Q. And the new corporation was to receive funds from Harry Koplin?

A. That is right.

Q. And the new corporation was to be the purchaser of the interest of Maurice A. Ginsburg here?

A. Yes, sir.

Q. Whatever there was in creditor's interest—lien creditors and general creditors?

A. The secured creditors purchased the building and

equipment, and it was represented by a chattel mortgage and liens.

Q. The purchaser was to be a holding company?

A. Yes, sir.

Q. Gold Medal Laundries was to purchase two-thirds of the stock by agreement of the new corporation?

A. Yes, sir.

Q. And also, the new corporation was to give the Gold Medal Corporation a written lease, is that right?

A. Yes, sir.

Q. And the terms were provided in this contract?

A. Yes, sir.

Q. And that was all prior to the contract of March 6, 1940?

A. Yes, and it was in the contract.

Q. It was in the contract of March 6, 1940?

A. Yes, sir.

Q. The new corporation was to be known as the Chicago Laundry Building Corporation?

A. Yes, sir.

Q. Was a new corporation organized?

A. The name was applied for, but it was turned down because the name was already being used.

Q. The name was not given?

A. Yes.

Q. The contract was dated March 6, 1940?

A. There were numerous delays.

Q. Have you the application that was made to the 200 Secretary of State?

A. I think the word "Chicago" was added on. This is the same application. You can see the erasure (indicating). It was the Laundry Building Corporation and then the "Chicago" was added.

Q. Do you have the application to the Secretary of State on the Laundry Building Corporation?

A. This is the one I received.

Q. How long prior to May 8th did you write?

A. I imagine that it was a day or two prior to that.

Mr. Topper: I will ask the reporter to mark this document as Trustee's Exhibit 1, as of January 20, 1942.

(Which said document was marked as requested.)

Mr. Topper: Q. I show you this document and ask you if that is the document which you received from the Secre-

tary of State on the application for the Laundry Building Corporation name?

The Witness: A. Yes, it is.

Q. Now, on or about March 6, 1940, did you receive all of the capital stock of the Gold Medal Laundries Corporation?

A. Yes, sir, I did.

201 Q. And that was delivered to you pursuant to this contract, is that right?

A. That is right.

Q. And this document which is marked as Trustee's Exhibit 10, for identification, is your signature?

A. Yes, sir.

Q. This is a receipt?

A. Yes, sir.

Q. Have you that stock in your possession at the present time?

A. Yes, sir.

Q. May I see it, please?

Mr. Topper: I will ask the reporter to mark these stock certificates as Trustee's Exhibits 2, 2-A, 2-B, 2-C, 2-D and 2-E, as of January 20, 1942.

(Which said documents were marked as requested.)

Mr. Topper: Q. On June 12, 1940, you had these stock certificates in your possession, did you not?

A. I believe that I have had them since March 6, but I could not locate them until a few days ago.

Q. Will you examine them, please?

A. Yes, sir.

202 Q. And also examine the reverse side, please?

A. Yes, sir.

Q. They are all blankly endorsed, is that correct?

A. Yes, sir.

Q. That is, they do not bear any specific endorsement?

The Court: What is that question?

Mr. Topper: Any specific endorsement to any specific party.

The Witness: A. The answer is "no".

Q. On or about November 21st, 1939, did you enter into a contract with the First United Finance Corporation of Chicago, Illinois, with respect to purchasing of a certain interest that they had?

A. Are you dating it for a certain time?

Q. I am asking if you entered into such a contract?



A. Yes, sir, I did.

Q. Have you the original of that contract?

A. This is an executed copy of the contract (handing document to counsel).

Mr. Topper: Off the record.

Mr. Topper: I will ask the reporter to mark this as Trustee's Exhibit 3, for identification, as of January 20, 1942. Will you mark it, please?

(Which said document was marked as requested.)

Mr. Topper: Q. You have had that document in your possession, have you, Mr. Kaplan?

A. Yes, I have had this in my possession.

Q. That is an executed and signed copy of a contract between Arthur S. Kaplan and the First United Finance Corporation of Chicago, Illinois, is it?

A. I think so.

Q. Are you familiar with the signature of R. W. Frieder?

A. I saw him sign it.

Q. That is his signature that you saw him sign?

A. Yes, sir.

Q. And that is your signature above it?

A. Yes, sir.

Q. And that is in the same condition as when you signed it?

A. Yes, sir, it is.

Q. How much has been paid under this contract?

A. Everything but forty-five hundred dollars. I think that makes sixteen thousand five hundred, plus the interest.

Q. The amount of the purchase price was twenty-one thousand dollars, was it?

204 A. Yes, I believe so.

Q. And there is still a balance of forty-five hundred dollars due?

A. Yes, I think so. That was withheld to satisfy certain liens that are still in difficulty.

Q. Has there been any change or transfer of the interest of the First United Finance Corporation?

A. No it still maintains it.

Q. The interest of the First United Finance Corporation was in existence on June 12th, 1940, was it?

A. That is right.

Q. And at the present time the same condition exists on that contract?

A. That is right.

Q. Has there been any transfer of your interest to any one under the contract?

A. I have not made a formal transfer.

Mr. Topper: Just answer the question.

Q. Has there been a formal transfer?

A. No.

Q. Did you have anything to do with the purchase of the stock of S. H. Millman by Joseph Feller?

A. Yes, sir, I was there.

Q. In what capacity were you there?

205 A. I represented Mr. Feller.

Q. Who is Mr. Feller?

A. He was an employee of Harry Koplin.

Q. At the Zephyr Laundry Machinery Corporation?

A. Yes, sir, at that time.

Q. What was the nature of his employment?

A. He was a trouble shooter and salesman.

Q. Where is he at the present time?

A. I think he operates a laundry in Louisville, Kentucky.

Q. What is the name of the laundry?

A. I think it is the Shopenhurst.

Q. Will you spell that?

A. S h o p e n h u r s t, I think.

Q. Who owns the Shopenhurst Laundry in Louisville?

A. It is held by a certain interest.

Q. Has Harry Koplin an interest in the Shopenhurst Laundries in Louisville?

A. If he has, it is strange to me.

Q. As far as you know?

A. No, sir.

Q. You did not represent him on the Shopenhurst interest?

A. I closed that deal. I represented Arnold May.

Q. That is the same interest that was intended in the purchase of Gold Medal?

206 A. Yes, sir.

Q. When did he first indicate an interest in that laundry?

A. He indicated it through his attorney, Clarence Brown.

Q. Was that before or after this contract of March 6, 1940?

A. Prior to and subsequent.

Q. How long before March 6th?

A. I can't tell exactly.

Q. How long in weeks or months?

A. I can't tell you.

Q. Was any indication made by Harry Koplin as to what he would be willing to pay for the Gold Medal Laundries?

A. There was one.

Q. What was it?

A. There were questions in assisting Mr. Koplin to finance it. Koplin didn't want to do it alone, but wanted Arnold May to do it.

Q. He was to have a one-third interest in the stock that was to be issued, was he?

A. Yes, sir.

Q. And also an interest on the loans that were advanced?

A. Yes, sir.

207. Q. At any time, did he indicate an interest in purchasing an interest in the Gold Medal Laundries?

A. Nobody was supposed to be interested.

Q. In this purchase of the Gold Medal was he a representative of Harry Koplin, or was he on your behalf?

A. He was not.

Q. When did you first know of the purchase of stock that Joseph Feller purchased?

A. Prior to the week that he purchased it.

Q. It was closed on June 12, 1940?

A. Somewhere around there.

Q. And you were the attorney for Joseph Feller?

A. Yes, sir, that is right.

Q. Who did you deal with on that as far as Mr. Millman was concerned?

The Court: Which one?

The Witness: A. S. H. and Robert.

Mr. Topper: And Robert Millman was representing S. H. Millman, was he?

A. Yes, sir.

Q. S. H. Millman is a brother to Robert Millman?

A. Yes, sir.

Q. Was Mr. Millman present at any of these discussions?

208 A. With me.

Q. Did Harry Koplin discuss any price for the purchase of Joe Feller's interest?

A. I think he did.

Q. And the first payment was made on that, was it?

A. Yes, sir.

Q. How much was it?

A. I think it was one thousand dollars.

Q. How was it paid, if you recollect?

A. By check.

Q. How was it paid?

A. Payable by Zepher and endorsed by Feller.

Q. Did you represent Zepher on that?

A. Yes, sir.

Q. What was the nature of the transaction between Feller and Zepher? Was it a loan?

A. It was endorsed.

Q. Was it repaid?

A. No, it was not.

Q. There was a weekly payment here as far as the balance was concerned?

A. That is right.

Q. And the balance was around two thousand dollars?

209 A. Yes, sir.

Q. It is not paid in full?

A. Not yet.

Q. The balance due from whom?

A. Joseph Feller.

The Court: To the Zepher Laundry?

Mr. Topper: He has not paid anything on the loan and has not kept the payments paid up for the purchase of the stock for three thousand dollars.

The Court: All right.

Mr. Topper: Q. Has Feller paid anything since the original payment of one thousand dollars?

The Witness: A. I don't know.

Q. Isn't it a fact that Budget Laundries took it over and has paid every payment up to now?

A. I think since Feller left they have paid it.

Q. While Feller was here, who paid it?

A. I don't know.

Q. Did the Chicago Laundry Building Corporation make payments to Sam Millman on this purchase?

A. I don't know.

Q. When did Feller start making payments on this stock?

A. Feller left, I believe, in October of 1940—that 210 is right—in October or November of 1940.

Q. Did the Budget Laundries make any payments on this contract thereafter?

A. Yes, sir, they have.

Q. They have made every payment?

A. Yes, sir.

Q. What arrangement is between the Budget Laundries and Joseph Feller as to the repayment of that money?

A. None at all.

Q. Has Joseph Feller made any repayments to the Budget Laundries on account of the payments made since November of 1940?

A. None at all.

Q. Where is Joseph Feller's stock at the present time?

A. It is all here (indicating).

Q. And has been in your possession all of this time?

A. That is right.

Q. Joseph Feller was in the employ of the Zepher Laundry Machinery Company up until June of 1940?

A. Yes, sir.

Q. Then where did he go from there?

A. To the Gold Medal.

Q. With you?

211 A. Not with me.

Q. I don't mean physically. I mean about the same time as you?

A. No—what do you mean "about the same time"? I have been in the Gold Medal perhaps twice.

Q. Prior to June 1, 1940?

A. Prior to that I probably stepped in twice for about one-half hour each time.

Q. What did Joseph Feller do in connection with Gold Medal at the time that he first entered the picture?

A. I don't know, I was not there.

Q. Do you know if he managed the Gold Medal Laundry?

A. That was the purpose, to throw new blood in the transaction.

Q. What did he do? What was his capacity?

A. He was the general supervisor.

Q. And he remained in that capacity until June of 1940?

A. With a slight deviation and a slight change in the picture.

Q. Was any change in the capacity given by Harry Koplin?

A. It stopped operation in November—October, 1940.

Q. Did it stop operating in June of 1940? Did you kick the Gold Medal Laundry out?

212 A. No, I did not.

The Court: You mean, the name was changed?

Mr. Topper: No. It was a new corporation.

The Court: That is the Budget Laundries?

Mr. Topper: Chicago Laundries, but it was changed after that, but it was the same corporation.

The Court: Go ahead.

Mr. Topper: Q. Did you at any time kick the Gold Medal Laundry out?

The Witness: I take exception to the word "kick".

Mr. Topper: Pardon me.

The Witness: A. On July 1st, 1940, which was on a Monday—on Saturday prior to that we talked to Mr. Millman.

The Court: Q. Which one?

The Witness: A. S. F. S. H. was out at that time when the doors of the laundry were sealed by the Revenue Department, and something had to be done to continue operations. We discussed it with him and he said that it looked as though they could not keep the ship up, and I said, "All right. You are through", and on Monday we started operating. On Monday I went downtown and obtained a release from the Department after I explained our situation to them.

213 Q. At that time you convinced the Department that you owned all of the interest in the corporation?

A. Definitely.

Q. I direct your attention to the 11th day of June, 1941, at two o'clock, P. M., at Suite 2205—100 North La Salle Street, and ask you if you appeared at that time on a deposition taken on behalf of plaintiffs, pursuant to an order of the Superior Court of Cook County?

A. I did.

Q. Did you testify at that time?

A. I believe that I did.

Q. Do you recall this question being asked, and this answer being given?



Q. What happened between the time you purchased the assets from Ginsburg and July 1st, 1940, with reference to the operation of the business?

A. Well, the Gold Medal Laundries were operating from the time of the bankruptcy until we threw them out.

Do you recall that question and that answer?

A. That is right.

Q. Is that question answered correctly?

214 A. Yes.

Q. Or this question being asked, and this answer being given?

Q. Well, when were they thrown out so to speak?

A. July 1, 1940.

Is that answer correct?

A. Yes, sir.

Q. Mr. Kaplan, was there a written lease between you or Harry Koplin and the Gold Medal Laundries Company?

A. The contract of March had provided for a lease, and I believe I drew one in accordance with the terms of the agreement.

Mr. Topper: Just answer the question.

The Court: Q. Was there, or was there not a written lease?

The Witness: A. That, I think, calls for a conclusion—I would say yes.

Mr. Topper: Q. What was the date of the lease?

The Witness: A. March 6, 1940.

Q. And that is in the contract of March 6th that you referred to?

A. Yes, sir.

Q. Where in this contract of March 6, 1940, is 215 there a lease between Harry Koplin and the Gold Medal Laundry Corporation?

A. Right here it says: "Koplin will cause the proposed corporation to lease and demise to the laundry—

Mr. Topper: Just a minute. We will offer the document in evidence. Off the record.

Mr. Topper: I offer it in evidence. Any objection?

Mr. Rosenfield: No objection.

The Court: There being no objections it may be received and marked as Trustee's Exhibit 9.

Mr. Topper: Q. Now read the paragraph.

The Witness: A. Koplin will cause the proposed corporation to lease and demise to the Laundry all of the real

and personal property to be acquired by it as herein provided for a term concurrent with the life of this contract, and the Laundry shall pay to the proposed corporation as rent therefor the amount of the general and special real estate taxes levied on the real estate and personal property tax levied on the personal property for the years 1940 and thereafter, and insurance premiums covering the usual risks upon the said property, both real and personal, as the same shall respectively mature, and in addition, shall pay all costs and charges for maintaining the 216 real and personal property in a good condition.

Q. Is that the lease to which you referred?

A. That is all I interpret as a lease.

Q. Was there an oral lease also?

A. No.

Q. Did you at any time, Mr. Kaplan, or did anyone in your behalf, serve notice on the Gold Medal Laundries prior to July 1st, 1940 for the premises at 2621 West Chicago Avenue?

A. The notice that I testified to on Saturday.

Q. Which was that?

A. The plain conversation that I had with S. F. Millman prior to July 1, 1940.

Q. I am speaking on behalf of the corporation?

A. That is what I mean.

Q. Had you talked the matter out with S. F. Millman?

A. Yes, sir.

Q. Had demand been made for rent that had accrued before July 1, 1940?

A. Yes, sir.

Q. How much had accrued before July 1st, 1940?

A. I don't know.

Q. Do you know how much the rental of the premises was?

A. No.

217 Q. Was there any legal proceedings taken for the premises at 2621 West Chicago Avenue?

A. No.

Q. Either on your behalf, or on the behalf of Harry Koplin?

A. I don't believe so.

Q. When was the Chicago Laundry Building Corporation organized?

A. May 10, 1940.

Q. Have you the Certificate of Incorporation?

A. Yes, sir.

Q. May I see it?

A. Yes, sir (handing document to counsel).

Mr. Topper: I will ask the reporter to mark this as Trustee's Exhibit 4, for identification.

(Which said document was marked as requested.)

Mr. Topper: Q. Has this document been in your possession up to this time?

The Witness: A. Yes, sir.

Q. This is a Certificate of Incorporation issued by the Secretary of State, is that right?

A. Yes, sir.

Q. And issued to the Chicago Laundry Building Corporation?

A. Yes, sir.

218 Q. And the incorporators were whom?

A. Arthur S. Kaplan, Ben Rosenfield and Harry Director.

Q. That is the same Ben Rosenfield that is representing you in this proceedings?

A. Yes, sir.

Q. He is presently associated with you, and was associated with you prior to May 10, 1940; is that right?

A. That is right.

Q. You are partners?

A. Yes, sir.

Q. Who is Harry Director?

A. He is our clerk.

Q. What was the issue of stock under this Certificate of Incorporation?

A. Up to seven thousand dollars, I believe.

Q. And how much was issued?

A. Before the commencement of business?

Q. That is right.

A. If I recall it, there was seven thousand dollars worth. You had better read it.

Q. And how much was issued since incorporation.

A. Fifty thousand dollars.

The Court: Q. How much was paid into the corporation for the stock?

The Witness: A. Fifty thousand dollars.

Mr. Topper: Q. Who paid that money into the corporation?

The Witness: A. Mr. Koplin.

Q. Mr. Harry Koplin?

A. That is right. We paid the money advanced by him.

Q. Has there been any money furnished by you?

A. No.

Q. Or Rosenfield?

A. No.

Q. Or Director?

A. No.

Q. Have any assets been bought by either of the three of you and turned in to the corporation out of your own funds, Mr. Kaplan?

A. No, not from our funds.

Q. There is nothing in the corporation that was purchased by you?

A. No, it is Harry Koplin's corporation.

Q. On or about September 6, 1940, the name of the corporation was changed, was it?

A. Yes, sir.

Q. And the change was by amendment filed with 220 the Secretary of State, is that right?

A. Yes, sir.

Q. What was the new name?

A. Unique Launderers, Incorporated.

Q. Was there any change in the purpose of the corporation?

A. No, it was to operate a laundry.

Q. Chicago Laundries Building Corporation prior to that time had been operating the business?

A. No, sir, it was not.

Q. They were created for the purpose of holding the title to the real estate, is that right?

A. Yes, sir.

Mr. Topper: I will ask the reporter to mark this as Trustee's Exhibit 5, for identification, as of January 20, 1942. Off the record.

(Which said document was marked as requested.)

Mr. Topper: Q. Will you look at Trustee's Exhibit 5, as of today, and tell the Court if that document has been in your possession?

The Witness: A. That is right.

Q. That is the Certificate, or Articles of Incorporation issued by the Secretary of State and showing the amendment to the articles?

A. That is right.

Q. After that had there been any change in the stock structure of the corporation?

A. What do you mean?

Q. I mean, are there any new stockholders in the corporation?

A. Yes, there are.

Q. Who were they?

A. J. F. Friedman and Merle Friedman.

Q. And the new name was what?

A. Unique Launderers, Incorporated.

Q. And after that there were new stockholders brought in?

A. Yes, sir.

Q. And they were J. F. Friedman and Merle Friedman?

A. That is right.

Q. Did they purchase their stock?

A. That is right, it was changed.

Q. It was changed for what?

A. For Unique stock.

Q. That was next door and owned by J. F. Friedman and Merle Friedman?

222 A. That is right.

Q. How much stock had been issued to J. F. Friedman and Merle Friedman?

A. Accumulative twenty-five thousand dollars.

Q. Was this stock actually issued to them?

A. Yes, sir.

Q. How long did they hold the stock, if you know?

A. I believe that was up to February or March of 1941.

Q. Then what did they do with it?

A. Returned it, and we returned their stock.

Q. You returned their stock?

A. This was an exchange of stock.

Q. Then in February or March of 1941 who were the stockholders of the Unique Cleaners after J. F. Friedman and Merle Friedman left?

A. You mean the cleaners or laundry?

Q. Unique Launderers?

A. Myself, Mr. Rosenfield and Mr. Director.

Q. The same three individuals that were there before?

A. Yes, sir.

Q. And in February, 1941, was there another change



in the corporation taken with respect to the Articles of Incorporation?

223 A. Just a change in the name.

Q. There was no change in the purpose of the corporation?

A. I don't believe so.

Q. And it has been operating since that time as the Budget Laundry Company?

A. Yes, sir.

Q. It is still operating?

A. Yes, sir.

Q. There are no changes in the Articles of Incorporation?

A. No, sir.

Q. You are still the stockholders?

A. Yes, sir.

Q. Has there been any payments made to Koplin?

A. No, sir.

The Court: Off the record.

Mr. Topper: Q. Will you examine Trustee's Exhibits 13, 14, and 15, which are the documents of the transaction that you had with Mr. Ginsburg?

The Witness: A. Yes, sir.

Q. Will you examine them and tell me if they are either genuine originals or genuine carbon copies?

A. They are executed originals which I received.

224 Q. That is, except the bill of sale which is Trustee's Exhibit 13?

A. That is a certified copy.

Mr. Topper: I offer the documents, TRUSTEE'S EXHIBITS 13, 14 and 15 in evidence.

The Court: Is there any objection?

Mr. Rosenfield: No objection.

The Court: They may be received in evidence and marked as requested.

Mr. Topper: They have been marked at a previous examination, your Honor.

The Court: All right.

Mr. Topper: I will ask the reporter to mark this as Trustee's Exhibit 16, as of January 20, 1942.

(Which said document was marked as requested.)

Mr. Topper: Q. On June 12, 1940, did you know that the Gold Medal Laundries had been paying Maurice Ginsburg sixty dollars a week for the purchase of his interest?



The Witness: A. Yes, sir.

Q. Did you know that on June 12, 1940?

A. Yes, sir.

Q. Do you know whether or not there was a default in the payment of sixty dollars a week?

A. I understood that there was.

Q. How much was that default?

A. I don't know.

Q. Did you make an examination of the records of the Gold Medal Laundries with respect to the amount of money paid under the contract?

A. No, sir.

Q. Isn't it a fact, Mr. Kaplan, that the purchase price of this contract on June 12, 1940, by the Chicago Laundry Building Corporation was determined by a deduction of the amount that the Gold Medal Laundries had paid, from sixty-one hundred dollars?

A. Yes, sir.

Q. Did you make an examination of the records?

A. No, I did not.

Q. Who did make the examination?

A. Mr. Koplin's auditor.

Q. Did he report to you the amount of money owed by the Gold Medal Laundries?

A. I think that either Mr. Koplin or his auditor advised me of the amount.

Q. What is the name of the auditor?

226 A. Mr. Silvert.

Q. Is that J. M. Silvert, the auditor that set up the books in June of 1940?

A. Yes, it is.

Q. Do you know whether he drew off any information from the books of the Gold Medal Laundries in setting up the books?

A. No.

Q. But you know that Mr. Silvert made an examination of the books of the Gold Medal Laundries to find how much was paid under the contract with Mr. Ginsburg?

A. Yes, sir.

Q. Did Mr. Silvert say that there was a default under the contract at that time?

A. No, one of the Millmans did it.

Q. Who did it? Was it Robert?

A. I don't know. There was so much conversation. I think it was Robert Millman.

Q. Did you hear the testimony of Robert Millman before Referee Cohen of this Court?

A. Yes, sir, I did.

Q. Do you recall him testifying that there was no default under the contract?

227 A. Yes, sir.

Q. Was that true?

A. I don't believe it was true.

Q. How much was in default?

A. I don't know.

Q. Did Mr. Ginsburg ever tell you that there was a default under this contract?

A. I did not see him, but once in my life, and that was many months after the negotiations on this contract.

Q. When was the last time that you examined the books and records of the Gold Medal Laundries Corporation?

A. It was between June 12th or 14th and July 1st.

Q. Who was present at the time that you made the examination, Mr. Kaplan?

A. I believe Sam H. Millman. I believe that there was a cousin of his that worked as bookkeeper, and I think Louis Millman.

Q. Is Louis Millman a son of S. F. Millman?

A. I think so, but I am not sure.

Q. Was Louis Millman one of your bookkeepers?

A. He was a bookkeeper for the Gold Medal Laundries.

Q. Did he remain in the employ of the Chicago Laundry Building Corporation?

228 A. Yes, for a short time.

The Court: For how long a time was it?

The Witness: A. I don't remember.

Mr. Topper: Q. And who else was present at that time?

A. Samuel H. Millman.

Q. You have mentioned him. Who else?

A. That is all, except myself.

Q. And that was between June 12th and July 1st?

A. Yes, sir.

Q. Samuel H. Millman had sold his stock on July 1st?

A. Yes, sir.

Q. Where was that meeting?

A. At the office of the Gold Medal Laundries.

Q. What happened to the books of the corporation after that examination?

A. I don't know.

Q. You did not see them again after that?

A. Yes, sir.

Q. You left them in the office of Gold Medal Laundries?

A. They were working on them on the desk and I left them right where they were.

Q. Do you know a Ruth Koragodsky?

A. No, I do not.

229 Q. When did J. M. Silvert examine the books and records of the Gold Medal for the first time?

A. I believe that it was a day—or a short time before the closing of the Ginsburg matter sometime prior to June 12, 1940.

Q. Did he bring anyone with him to assist him?

A. I don't know.

Q. Do you know if there was a girl named Pearl—a husky girl named Pearl with him?

A. No, Pearl was—

Q. What is her last name?

A. I don't know, but the employment records will show it. She is some one that we hired as bookkeeper after Louis Millman was fired.

Q. Is she still in your employment?

A. No, sir.

Q. How long had she been in your employ after that?

A. About three or four months.

Q. Your wage and tax statement filed with the Government will show this Pearl as an employee for the third quarter?

A. If she was there then.

Q. The third quarter would show June and July, would it?

A. Yes, it would.

230 Mr. Topper: Off the record.

Mr. Topper: Q. Who is Mr. Pincus?

A. He is the bookkeeper and accountant for Mr. Koplin.

Q. Did he ever make an examination of the books and records of the Gold Medal Laundries?

A. I think he did. Not of the Gold Medal. He had something to do with the opening of the books of the Chicago Laundry Building Corporation's books.

Q. Did he assist Mr. Silvert?

A. Yes sir.

Q. Was Pincus the bookkeeper for the Gold Medal Laundries in June of 1940?

A. Yes, sir.

Q. What is his first name?

A. I don't know. They called him "Pinkie."

Q. Is he still in the employ of the Chicago Laundry Building Corporation?

A. Yes, sir.

Q. Have you any of the drivers that were in the employ of the Gold Medal Laundries in June of 1940?

A. Yes, sir.

Q. They are in your employ at this time?

231 A. I think there are some.

Q. What are their names?

A. Abe Leon, Herman Rosenbaum, Nick Sololychi—that is all I can remember.

Q. How many drivers have you at the present time?

A. Seventeen.

Q. How many did you have when you first started as the Chicago Laundry Building Corporation in July of 1940?

A. Twenty.

Q. Have there been any new routes acquired?

A. No.

Q. Do you know anything about the market value of the kind that are had and operated now by the Budget Launderers, Incorporated?

A. All that I can say is that you cannot sell them.

Mr. Topper: I ask that be stricken.

Q. Do you know anything about the value of a route?

A. No, sir.

Q. They had twenty routes in July of 1940, is that right?

A. That is right.

Q. What is the average amount of money that each route produces? Tell us what they produce.

A. You mean, in June and July of 1940?

232 Q. Yes, June and July, 1940?

A. They average about one hundred and twenty dollars a week per route.

Q. Approximately three thousand dollars a month?

A. No, twenty times one hundred and twenty.

Q. Well, approximately how much?

A. Approximately twenty-five hundred dollars.

Q. Have you an opinion, Mr. Kaplan, as to what the fair and reasonable value of these routes were on July 1st of 1940?

A. No, I have not.

Q. Have you an idea of the fair and reasonable value of the routes at the present time in Chicago?

A. No, I have not.

Mr. Topper: That is all.

The Court: Do you have any questions?

Mr. Rosenfield: Yes, Your Honor.

*Cross-Examination by Mr. Rosenfield.*

Q. With reference to the change of names, the nature of the change and the purpose of the corporation. Will you explain that? Tell the Court how that came about and the circumstances surrounding it, will you?

233 A. The name of the Chicago Laundry Building Corporation became inappropriate once we began operating.

Q. What name was taken by the corporation?

A. We started negotiating with Mr. Friedman to take over the management.

Q. You are speaking of Mr. J. L. Friedman?

A. Yes, sir.

Q. What corporation is he connected with?

A. Unique.

Q. How long has he been connected with that corporation?

A. For thirty or thirty-five years.

Q. How far was he away from this business—

Mr. Topper: He answered that. He said next door.

Mr. Rosenfield: Q. What name was adopted by the Chicago Laundry Building Corporation?

The Witness: A Unique Laundry Corporation.

Mr. Rosenfield: Off the record.



R. W. FRIEDER was called as a witness on behalf of the trustee, and being first duly sworn, was examined and testified as follows:

*Direct Examination by Mr. Topper.*

234 Q. What is your name and address, please?

A. R. W. Frieder, 9 West Washington Street, Chicago.

Q. What is your occupation, Mr. Frieder?

A. I am the Chicago Manager for the First United Finance Corporation.

Q. I show you what has been marked as Trustee's Exhibit 1-A and 1-B, and ask you if they are true and correct copies of the originals?

Mr. Rosenfield: Off the record.

The Witness: It looks like my handwriting. What is the question?

Mr. Topper: Read the question, Mr. Reporter.

(Which said question was read as requested.)

The Witness: A. Yes, to the best of my memory.

Q. Do you know Mr. Irving S. Berman?

A. Yes sir.

Q. Who is he?

A. He is an attorney and was employed in connection with this matter.

Q. Are you familiar with the signature of Irving S. Berman?

235 A. I think that this document was signed in the office in front of me.

Q. You are referring to Trustee's Exhibit 2?

A. Yes sir.

Q. When was the last time that you saw that instrument? That has been in your possession?

A. In the year 1939.

Q. And there has been no change in the instrument since you last saw it, is that right?

A. Yes sir.

Q. I show you what has been marked as Trustee's Exhibit 3, which is a letter addressed to the Strand Family Laundry Company on June 29th, 1937, and ask if that is a true and correct copy of the instrument?

A. Yes sir.



Q. I ask you to look at Trustee's Exhibit 4, which is a Special Commissioner's Deed issued to the First United Finance Corporation; and signed by Gerald R. Gorman?

A. This I am not familiar with, but I am certain that it was out of this proceedings.

Q. Have you the original of that document?

A. You received this from our office, didn't you?

Q. Yes?

236 A. If it came out of our office I did not see it before, but I know that we would not have it unless it was out of this transaction.

Mr. Topper: That is all.

*Cross-Examination by Mr. Rosenfield.*

Q. You said Mr. Frieder, that you had all of these instruments in your possession?

A. My secretary said that you got them from her this morning.

Q. Did Arthur Kaplan ever see these in your possession?

A. I don't think so.

Q. You never discussed the contents of these letters with him, did you?

A. I doubt it.

Q. As far as you know, he did not have any dealings on any of these documents?

A. That is correct.

Q. Did you have conversations with any one person, besides Mr. Kaplan, with respect to the projected transaction between the First United and the Budget Launderers?

A. Mr. Kaplan is the only man.

Q. Do you know Mr. Harry Kopel?

237 A. Yes sir.

Q. Did you ever discuss any of the documents with Mr. Harry Koplin?

A. I think so.

Q. Did you ever discuss any of the documents with Mr. Harry Koplin?

A. I don't believe I did.

Q. Search your memory and tell me if you did?

A. I had better say that I don't recall. If you refresh my memory I might remember.

A. As far as you know, and to the best of your recollection and memory, you would say that you did not have any conversations with Kepplin on any of these documents that you just saw, is that right?

A. That is right.

Mr. Topper: Q. These documents all relate to the transaction you had with Harry Koplin?

A. Yes sir.

Mr. Topper: I offer TRUSTEE'S EXHIBITS 1-A, 1-B, 2, 3, 4 and ask that they be received in evidence.

Mr. Rosenfield: I object, your Honor, on the ground that it does not affect the proceedings.

The Court: I overrule the objection. They may be received.

238 Mr. Topper: I ask leave to withdraw the originals and substitute photostatic copies.

The Court: You may withdraw the originals.

Mr. Topper: I also offer TRUSTEE'S EXHIBITS 5, 6, 7, 8, 10, 11 and 12, being all of the documents of last week, and offer Trustee's Exhibits as of today.

The Court: They may be received.

Mr. Topper: None of them are objected to.

The Court: Do I understand, Mr. Rosenfield, that these stock certificates were produced by your witness?

Mr. Rosenfield: Yes sir.

The Court: And they may go into evidence, and also the letter from the Secretary of State and also the Certificate of Incorporation?

Mr. Rosenfield: Yes sir.

The Court: All of them were produced by you?

Mr. Rosenfield: Yes sir.

The Court: They may be received in evidence.

Mr. Rosenfield: I have objected to some of these. I have no objections to the Exhibits brought in this morning.

The Court: I will tell you what to do—check them over with Mr. Topper and stipulate on it.

239 Mr. Rosenfield: All right.

The Court: Let the record show that all of the written documents which have been heretofore identified and introduced by the trustee may be received in evidence, unless there is an objection noted in the record by Mr. Rosenfield.

Mr. Topper: That is fine.

The Court: We will adjourn this hearing to January 27th at 2 o'clock.

(Witness Excused.)

Whereupon an adjournment was hereupon taken to the hour of two o'clock, P. M., January 27th, 1942.

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BEFORE REFEREE IN BANKRUPTCY

ARCHIE H. COHEN.

January 27, 1942,  
Two o'clock P. M.

• • (Caption—76517) • •

Court re-convened in the above entitled cause, at the hour of two o'clock P. M., January 27, 1942, pursuant to adjournment heretofore taken herein.

Present:

Mr. Russell J. Topper, appearing on behalf of Harry W. Cline, trustee, and petitioning creditors.

Mr. Ben Rosenfield and Mr. Arthur S. Kaplan, appearing on behalf of respondents.

Mr. Eli Herman, appearing on behalf of a creditor.

241. Mr. Topper: Mr. Leon, will you take the stand, please?

ABE LEON was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Your name, address and occupation, please?

A. Abe Leon.

Q. Will you spell your last name?

A. L-e-o-n.

Q. Your address?

A. 1922 North Humboldt Boulevard.

Q. Chicago?

A. Chicago, Illinois.

- Q. Your business or occupation?  
A. Laundry driver.  
Q. For whom or by whom are you employed at the present time?  
A. The Budget Launderers.  
Q. Where are they located?  
A. At 2621 West Chicago Avenue.  
Q. Have you ever been employed by the Gold Medal Laundry Company?  
A. Yes, I was.  
Q. When were you first employed by the Gold Medal?  
A. I was employed before the Gold Medal Laundry.  
Q. By whom?  
A. By Samuel Millman.  
242 Q. And then you continued in the employ of the Gold Medal, is that correct?  
A. That is correct.  
Q. Were you continuously in the employ of the Gold Medal?  
A. Yes.  
Q. Up until what time?  
A. I am still employed at the same plant, only it is the Budget Laundry now.  
Q. Were there any other corporations or any other names that this company bore during that period of time, from 1939 up until the present time?  
A. I don't think so. Gold Medal and then the Budget.  
Q. Do you know when it became the Budget?  
A. In July, 1940, I guess. I think so. I am not positive about that.  
Q. You drive a truck, do you not?  
A. Yes, sir.  
Q. And you were driving a truck in 1939?  
A. That is right.  
Q. What kind of a truck was that, Mr. Leon?  
A. A Chevrolet.  
Q. How many other drivers were there at that time working for the Gold Medal?  
A. I couldn't say. I am not positive.  
Q. What model Chevrolet did you drive?  
243 A. Either a 1937 or 1938. I am not positive.  
Q. And you drove that same truck during that period of a year, or approximately a year, from 1939 until 1940, is that correct?

A. Yes, sir.

Q. What happened to the truck, if anything?

A. I wouldn't know.

Q. When was the last time that you drove that truck?

A. Until I found a new truck in the garage.

Q. Who told you that you were no longer to drive the old truck?

A. I did it because there wasn't any old truck there any longer.

Q. What happened to it, if you know?

A. I was only working there. I didn't stay there at night. I wouldn't know.

Q. When did you first find out that you were to drive a new truck?

A. The morning I found my new truck.

Q. At the laundry?

A. Yes, sir.

Q. Did they keep the trucks at the laundry, at 2621 West Chicago Avenue.

A. Yes.

Q. Who directed you to pick out the particular truck that you did?

244 A. We picked any truck at all. They were all new trucks.

Q. As far as you know, you don't know what disposition has ever been made of the old trucks, is that correct?

A. Correct.

Q. Now, in the operation of your truck or, rather, in the operation of your route, what records do you keep?

A. Oh, I have a ticket, a daily ticket.

Q. How is that ticket referred to?

A. It just has the name and the address of the customer, and the amount.

Q. How is that ticket described in the bookkeeping system at the Budget Launderers?

A. Well, they have their own bookkeeping system.

Q. How is your ticket described?

A. My ticket is an individual daily ticket. That is all it is.

Q. What does it contain?

A. The name and address of the customer, and the amount of the laundry.

Q. Is that a weekly ticket?

A. Yes, sir.

Q. That is, the ticket is from week to week, is that correct?

A. From Monday until Saturday.

245 Q. What happened to the tickets at the close of each week?

A. That is all on record.

Q. Do you transmit any of the information off of these tickets to any of the bookkeepers that are working for the Budget Launderers?

A. No.

Q. You kept these weekly tickets while you were with the Gold Medal?

A. Yes, sir.

Q. And the same operation continued with the Budget Launderers?

A. That is right.

Q. Did you report your weekly or daily sales to any of the bookkeeping staff of the Gold Medal?

A. No.

Q. Did you or do you report your weekly or daily sales to the bookkeeping staff of the Budget Launderers?

A. No, sir.

Q. Have you done that during the period of time you have worked for them?

A. No, sir.

Q. Was there any information at all that you had given them, that is, the bookkeepers of either the Gold Medal or the Budget Launderers, in connection with your route?

A. No, sir.

246 Q. And, if you know, did the Gold Medal or the Budget Launderers obtain any information concerning your route?

A. They keep their own records.

Q. How do they obtain information from you, or do they?

A. They don't.

Q. How do they obtain information, if you know, about your route?

A. Well, when a bundle comes in with the name and address on the bundle, they take that off on their records.

Q. Do you attach a slip to the bundle?

A. Yes.

Q. Who sends the bundle in?

A. I didn't get that question.



Q. Who sends the bundle in?

A. The customer, of course.

Q. And this slip that is attached to the bundle is in your handwriting, is that correct?

A. No.

Q. In whose handwriting is it?

A. It is printed. There is a stencil system that we have.

Q. Don't you make any notations upon this slip?

A. Just the service.

Q. By the way, do you collect?

A. Yes.

Q. When.

A. Well, sometimes on delivery and sometimes the next day. Any time.

247 Q. During the course of the week, is that right?

A. That is right.

Q. And you followed the same process in connection with the Gold Medal, is that correct?

A. That is right.

Q. What happens to the funds as you make collection of them?

A. We turn them in.

Q. To whom?

A. To the bookkeeper.

Q. During the period of your employment with the Gold Medal, to whom did you turn these moneys over?

A. The same thing. To the bookkeeper.

Q. Who was that?

A. They had a few of them. I don't ever remember the names now.

Q. Do you know Ruth Korogodsky.

A. Yes.

Mr. Topper: Will you stand up, please? Will you spell your name for the court reporter?

Ruth Korogodsky: K-o-r-o-g-o-d-s-k-y.

Mr. Topper: Q. You know her name, don't you?

A. Yes, sir.

Q. Do you know Mr. Louis Millman?

A. Yes.

Q. You knew his name prior to today, didn't you?

248 A. That is right.

Q. And you saw him in the employ of Gold Medal?

A. Gee, I don't know. He has been on and off in their employ.

Q. But he was there during the entire period you were working for Gold Medal?

A. No, he was not.

Q. The greater part of the period he was, wasn't he?

A. I wouldn't say the greater part. Some part.

Q. Did you report to him your daily collections?

A. Yes, sir.

Q. Did you report to Ruth Korogodsky?

A. Yes.

Q. Was there any other bookkeeper that you reported to?

A. Yes.

Q. To whom else did you report?

A. Samuel H. Millman.

Miss Korogodsky: No.

The Witness: Just a moment. We used to call him Samuel Millman.

Mr. Topper: Q. Is that the younger Millman?

A. Yes, sir.

Q. That is Samuel H., isn't it?

A. I don't know.

Q. That is the younger Millman, is that right?

249 A. Yes.

Q. Any one else?

A. That is all I can recall.

Q. Now, at the time that you started to work for Budget, to whom did you make your reports of collection of funds?

A. Whoever the bookkeeper was.

Q. And who was that?

A. The lady is now in the room here. Miss Ella—  
I don't know her last name.

Q. Who?

A. She is here now.

Q. Will you identify her, please?

A. Yes (indicating.)

Q. What is her name?

A. Ella.

Miss Rumenap: My name is Rumenap.

Mr. Topper: Will you spell that, please?

Miss Rumenap: R-u-m-e-n-a-p.

Mr. Topper: Q. Who was the first one of these bookkeepers that left the organization of the Gold Medal?

A. I would say Samuel H. Millman.

Q. When was that, if you know.

A. As a bookkeeper. He was still there.

Q. What is that?

A. As a bookkeeper, but he was still there after that.

Q. After what?

A. After he gave up the bookkeeping.

Q. When was that?

A. Well, I would say around 1939.

Q. What part of 1939, if you recall?

250 A. I don't. I really don't. They change so fast I can't recall.

Q. Who was the last bookkeeper that you reported to?

A. As far as the Gold Medal was concerned?

Q. That is right.

A. Gee, I don't remember now.

Q. Well, after Samuel H. Millman left, wasn't Louis Millman there?

A. Yes.

Q. Was Ruth Korogodsky there?

A. Yes. That was all after Samuel H. Millman left.

Q. That was around June of 1940, isn't that correct?

A. That may be so, yes.

Q. Did Samuel F. Millman leave the Gold Medal corporation at any time during the summer of 1940?

A. Yes.

Q. Did he?

A. Yes.

Q. What part of the summer, if you know?

A. Oh, I would say around March or April.

Q. Who were the bookkeepers after he left? Was Louis Millman still there?

A. No.

Q. Was Ruth Korogodsky still there?

A. Yes.

Q. Was this Ella Rumenap there?

A. No.

251 Q. When did Ella Rumenap become the bookkeeper of the Budget Launderers?

A. I would say the end of 1940.

Q. Was she ever employed by Gold Medal, if you know?

A. No.

Q. Did she come after Ruth Korogodsky?

A. Yes.

Q. How long after.

A. Oh, we had another man in between them.

Q. Who was that?

A. A man.

Q. Pinkus?

A. No.

Nick Solotycki: Erickson.

The Witness: Erickson, yes.

Mr. Topper: Q. What is Erickson's first name?

A. I don't know.

Q. From where did Erickson come, if you know?

A. I don't know.

Q. Isn't he the bookkeeper of the Unique Laundry next door, that is owned by J. L. Friedman?

A. He may be. I don't know.

Q. After the Millmans left, you reported to each one of these bookkeepers?

A. Which Millman?

Q. After the last Millman left. That was Samuel F.  
252 That is the older Millman.

A. The older Millman?

Q. Yes.

A. Then there was the younger Millman there. There were two Millmans there.

Q. I understand that, but didn't the younger Millman leave prior to the time Samuel F. Millman left?

A. That is right. He did.

Q. Tell us, after Samuel F. Millman left, to whom did you report? Which bookkeeper of these you have enumerated did you report to?

A. I don't know.

Q. Did you report to all of them?

A. All that were there, yes.

Q. They were still operating as the Gold Medal Laundries after Samuel F. Millman left, is that correct?

A. I don't remember that.

Q. Your slips were Gold Medal slips, were they not?

A. They were, and they changed to Budget Launderers.

Q. But you reported on Gold Medal slips to these various bookkeepers after Samuel F. Millman left, did you not?

A. Yes, of course.

Q. And those entries, as far as you know, were entered in the books and records of the Gold Medal, isn't that correct?

A. It may be. I wouldn't know.

253 Q. Well, you brought your records in to them?

A. Yes.

Q. Did you see any of the bookkeepers make any entries from the documents you brought in?

A. I don't know. All I got was a receipt. That is all I was interested in.

Q. Do you know Mr. Pinkus?

A. Yes, I do.

Q. When did Mr. Pinkus come into this organization? I am referring to the Gold Medal or Budget, either one of the two.

A. He was in on the Budget, I guess.

Q. When did he come in?

A. Oh, I would say in the latter part of 1940.

Q. What was his capacity, if you know?

A. Well, as far as I know, he is a bookkeeper.

Q. What is his first name?

A. I don't know.

Q. Where did he come from, if you know?

A. I don't know.

Q. Were you operating the same route?

A. Yes.

Q. From the time you were first employed by the Gold Medal up to the present time?

A. Yes.

Q. How many routes were there in September of 254 1939, when the Gold Medal was first organized?

A. Nineteen or twenty. I don't know for sure.

Q. How many.

A. Nineteen or twenty or twenty-one. I don't know.

Q. What was your gross weekly collection?

A. There is no such thing.

Q. What was your average weekly collection?

A. I wouldn't know that.

Q. How much did your route produce gross weekly over the period starting with September of 1939 up to and through June of 1940?

A. I don't know.

Mr. Rosenfield: I object to that question.

The Court: He has already answered and said he doesn't know.

Mr. Topper: Q. Have you any way of computing the amount of moneys that you collected there weekly, monthly, bi-weekly or for any other period of time?

Mr. Rosenfield: I object. That hasn't anything to do with this hearing.

The Court: He may answer "yes" or "no".

The Witness: Only for one week, that is all.

Mr. Topper: Q. Do you know the lowest gross collection that you made for any single week over that period of time?

255 A. For one week, yes.

Q. And you know the highest?

A. Yes.

Q. Over that same period of time?

A. Yes.

Q. Can you give us the average for the entire period of time, weekly?

A. I cannot.

Q. Can you give us a minimum and maximum report? Can you give us a report of your collections over that period of time?

A. I cannot.

Mr. Rosenfield: I object.

The Court: The objection is sustained. The books are the best evidence, and he says he has them.

Mr. Topper: He may testify to direct knowledge, Judge. Those entries made in the books are only secondary evidence. He, himself, knows what he has collected. He participated in the actual collection. I just want to note, for the record, the materiality of this examination. We are now laying a foundation for proving by expert testimony the value of all these routes.

The Court: Is this man the expert?

Mr. Topper: No. He is simply testifying to what his collections were for the individual route.

256 The Court: Well, he has the records, and he says he doesn't remember.

Mr. Topper: Q. You have no books and records with you?

A. No, sir.

Q. How are your routes designated? That is, how were they designated while you were working for Gold Medal?

A. I didn't get the question.

Q. How are they designated on the records of the Gold Medal Laundry Company, do you know?

A. Well, you have all our territories.

Mr. Topper: Mark these Trustee's Exhibits 1, 2 and 3, for identification, as of today.



(Which said documents were marked, for identification, as requested).

Q. Mr. Leon, I show you documents marked, for identification, as Trustee's Exhibits 1, 2 and 3, for identification, and ask you to examine those and tell me whether or not those are the types of records that have been used by salesmen of the Gold Medal Laundries?

A. No, sir. These were not records.

Q. What were they?

A. These were bills given to the customers when the bills were paid.

Q. Who gave them to them?

A. The route man.

Q. And you were a route man, is that correct?

257 A. Yes, sir.

Q. That is the type of document you used, isn't that correct?

A. Yes.

Q. Are these yours? Do they indicate your route?

A. No, sir.

Q. Take a look at all of them.

A. No, sir.

Q. One of them bears the date "September 17, 1940", is that right, bearing the name "Gold Medal Laundries, Inc."?

A. I see September 17, but I don't see 1940.

Q. Do you recall whether or not you, in the month of September, 1940, employed a record bearing the name "Gold Medal Laundries, Inc."?

A. Yes, sir.

Q. In September of 1940?

A. Yes, sir.

Mr. Topper: Mark this, for identification, as Trustee's Exhibit Number 4, of this date.

(Which said document was marked, for identification, as requested).

Q. Examine this document, Mr. Leon. This is Trustee's Exhibit Number 4, for identification, which purports to be a form slip bearing the name "Gold Medal Laundries, Inc."; and I ask you whether or not you used a document of that kind in the performance of your duties in connection with the Gold Medal?

258 A. Yes, sir.

Q. Did you use that type of document in September of 1940?

A. I wouldn't say it was exactly like it. It was one like that, with the name on it, yes.

Q. Were there any variations, and, if so, will you tell me what they were?

A. Well, the color is one.

Q. And what else?

A. The size is another.

Q. Did that bear more or less items than appear on the face of this instrument?

A. I can't tell you.

Q. Will you examine it?

A. If I do, I can't say either.

Q. What do you mean, "you can't say"?

A. Because I don't remember what was on the other.

Q. You used that for a period of time, didn't you?

A. Yes, but we only filled out the name and address, that is all.

Q. Who entered the articles and the amount of the stuff that was received?

A. The girls on the inside.

Q. You mean when they received the laundry they tagged it and the entries were made right on there by 259 those in the employ of the Gold Medal in the front office?

A. Not in the front office. In the plant.

Q. Tell me, Mr. Leon, the order in which these book-keepers left the organization of either Gold Medal or Budget?

A. I can't give you that.

Q. Who went first? Did Louis Millman go first?

Mr. Rosenfield: I object to that. He has answered, he doesn't know.

The Witness: I am sorry. I am not sure of it. I am not sure, and I won't answer it.

Mr. Topper: Q. Let us take each individual one, and tell me the approximate time they left the organization. Louis Millman?

A. He worked there. That is all I know.

Q. When was the approximate time he left the organization?

A. I don't know.

Q. Can't you give us some idea?

A. No, I can't, because the drivers never pay any attention to the office or the inside.

Q. How often do you report to them during the course of the week?

A. Once a day.

Q. Every day during the course of the week?

A. Yes.

A. And Ruth Korogodsky?

A. She was there. That is all I know.

260 Q. You don't remember when she left?

A. No, sir.

Q. And Mr. Pinkus, is he still there?

A. I don't know.

Q. Did you ever report to him?

A. No. I never reported to him personally.

Q. Is Ella Ruménar there?

A. Yes.

Q. Is she still with the organization?

A. Yes, sir.

Mr. Topper: All right, Mr. Leon. That is all.

The Court: Just a minute.

Mr. Topper: That is all from me.

The Court: Sit down. Did you talk to anybody before you came here?

The Witness: No, sir.

The Court: Were you subpoenaed? Were you served with a subpoena to attend here?

The Witness: Yes, sir.

The Court: You didn't discuss any questions that might be asked of you?

The Witness: No, sir, I did not.

The Court: With any lawyer or anybody?

The Witness: No, sir.

261 The Court: How old are you?

The Witness: Thirty-three.

The Court: All right.

The Witness: That is all?

The Court: Yes.

(Witness excused.)

NICK SOLOTYCKI was called as a witness by the trustee and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Give us your name, your address and your business or occupation?

A. Nick Solotycki.

Q. Will you spell that, please?

A. S-o-l-o-t-y-c-k-i.

Q. And your address?

A. My address is 2501 North Ashland Avenue.

Q. Chicago?

A. Chicago.

Q. What do you do for a living, Mr. Solotycki?

A. I drive a truck.

Q. For whom?

A. For the Budget Launderers.

Q. At the present time?

A. At the present time.

262 Q. In September of 1939 were you driving a truck for the Gold Medal Laundries?

A. For the Gold Medal Laundries, yes.

Q. And have you been driving that truck from that time up until the present time, regularly?

A. Right.

Q. When did you first start to drive for the Budget Launderers?

A. When did I first what?

Q. When did you first start to drive a truck for the Budget Launderers?

A. I think the Budget Launderers started in 1940, in the middle of the year.

Q. In the middle of the year?

A. That is right.

Q. What kind of a truck were you driving during the period of time that you were in the employ of Gold Medal?

A. A 1935 Chevy.

Q. Were you driving that truck up to the time that you were employed by the Budget Launderers?

A. Right.

Q. What happened to that truck, if you know?

A. I don't know. We went to the garage, and when we

came in in the morning, they were all new trucks. They  
263 said: "Take any one you like", because every one was  
alike.

Q. Did you talk to Harry Koplin at that time?

A. No. I knew the name, but I don't know how he  
looked.

Q. You at no time discussed the matter of the disposition  
of these trucks with Mr. Koplin?

A. No.

Q. Nor with Mr. Arthur Kaplan?

A. No.

Q. Who is Mr. Koplin, if you know?

A. Mr. Koplin is right there (indicating). I knew him  
afterwards, about two weeks later, or one week later.

Q. So you met Mr. Koplin?

A. That is right.

Q. Where did you meet him?

A. In the Budget Laundry.

Q. That is at 2621 West Chicago Avenue?

A. 2621 West Chicago Avenue.

Q. You heard, did you not, Mr. Solotycki, the testimony  
of Mr. Leon in connection with the individual record  
that you keep in the operation of your route?

A. Yes. I heard it, and I understood it.

Q. Were all the facts he testified to correct?

A. I think so. There was only one name I corrected him  
on, and that was Mr. Erickson. I remembered that better.

Q. What is his first name?

A. I don't know. We are never interested in that. We  
called him Mr. Erickson.

Q. Did you report your daily collections to the  
264 bookkeepers of Gold Medal during the period of time  
you were working for it?

A. Yes.

Q. To whom did you first report? Who was the first  
bookkeeper that you reported to?

A. There were so many that I can't tell. Louis Mill-  
man, Sam H. Millman, and I think Ruth Korogodsky. She  
was by the telephone board.

Q. Did you report to Mr. Pinkus?

A. I don't know.

Q. Don't you know him?

A. Pinkus?

Q. That is right.

A. Pinkus?

Q. Pinkus. Do you know any one that is referred to as "Pinky"?

A. I don't know that name, no.

Q. After or at the time that you first started to work for the Budget Launderers, who were the bookkeepers? Name all the bookkeepers that were there.

A. Mrs. Ella Rumenap.

Q. Who else?

A. Nobody else.

Q. Was Louis Millman there?

A. No. I didn't see him there.

Q. Was Ruth Korogodsky there?

A. No.

Q. Was Erickson there?

A. No.

Q. When did Erickson go?

A. Erickson was before Mrs. Rumenap. He was 265 before Ella, because he went next door to the Unique.

Q. After Samuel Millman left the organization, did you continue to drive his truck for Gold Medal Laundries?

A. What truck?

Q. Your truck. That is, your Chevrolet.

A. My 1935 Chevrolet.

Q. You continued to drive it after that for the Gold Medal Laundries?

A. Yes, sir.

Q. And you continued to report your daily collections to the bookkeeper at the 2621 West Chicago Avenue office?

A. That is right.

Q. When you did make your reports, you made them in the office of the bookkeepers?

A. That is correct.

Q. What documents did you turn over to them, if any? Did you turn over your individual record to them?

A. I turned it over to them every day, and Saturday they checked them.

Q. As you turned them over each day, did they return these records to you at that time?

A. Yes, they did.

Q. Did you stay there in the office during the period of time that they retained these documents?

A. Yes.

Q. Did you see what they did as far as making entries into the books or records is concerned?



A. No, I did not.

Q. You didn't watch them do anything?

A. No. When I got my receipt I walked out.

Q. I am showing you now Trustee's Exhibits 1, 2 and 3. Examine them, will you, and tell me whether or not you used tickets of that kind during the time that you worked for Gold Medal?

A. As far as I know about these tickets, that man is not working there any more. I don't know anything about this route. Mine is a different route.

Q. Who had that route?

A. We had Rudy Dinemark there. That is all I know.

Q. What is your number, by the way?

A. Mine is 46 now. It used to be, at the Gold Medal, number 15.

Q. But weren't your tickets the same as these tickets that you have in your possession, except, of course, for the laundry numbers?

A. The prices are the same.

Q. The same thing, the same ticket, the same printed matter and the same name?

267 A. That is right, but not for a long time.

Q. Not for a long time?

A. No.

Q. But in September of 1940 you still were using these tickets of the Gold Medal Laundries?

A. No.

Q. Examine Trustee's Exhibit 3. Does it not bear the date "September 17, 1940"?

A. Not those tickets.

Q. Didn't you use those tickets?

A. No. We had a different kind.

Q. Was Rudy Dinemark operating this route indicated by Trustee's Exhibit 3?

A. I don't know.

Q. What was his number?

A. Route 9.

Q. He had route 9 in September of 1940?

A. There are twenty drivers, and I am not interested in the others. I think Rudy Dinemark did, but I am not sure.

Q. When did Louis Millman leave the organization, if you know?

A. I don't know. I know Louis Millman used to be the bookkeeper.

Q. Samuel F. Millman's son?

A. Yes, but I don't know what he is doing now.

Q. Can you give us the approximate time he left 268 in 1940, if you know?

A. I don't remember.

Q. Can you give us the part of the year?

A. I couldn't give you the correct time.

Q. Can you tell us when Ruth Korogodsky left the organization?

A. Ruth Korogodsky used to work in the office as a telephone girl. That is what I know. Sometimes we turned the money in to her, because we trusted her, but I don't know if she was a bookkeeper or not. She was working for a short period.

Mr. Topper: All right, Mr. Solotycki. That is all.

The Court: Any questions?

Mr. Rosenfield: No.

The Court: Let me ask one question, for the record, of both of you gentlemen, Mr. Leon and the other witness. Are you being paid for your time here today?

Mr. Leon: I don't know. I imagine so.

The Court: You imagine so?

Mr. Leon: Yes.

The Court: Who will pay you?

Mr. Leon: The company.

The Court: Why don't you go back to your work?

Mr. Leon: We have to wait for our tickets.

269 The Court: You mean both of you do?

Mr. Leon: Well, we all came here in one car.

The Court: I see. I just wanted to know.

Mr. Topper: I would like the books and records of the Budget Launderers.

The Court: You might as well have the books here. Get the bookkeeper.

Mr. Topper: Have you the original books and records, Miss Rumenap?

Miss Rumenap: Yes.

Mr. Topper: Judge, may we have a ten-minute recess? I want to check the original records that have been sent over here. Off the record.

(Whereupon a short recess was here taken.)

(Witness excused.)

270 HARRY KOPLIN was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. State your name, address and occupation, please.

A. Harry Koplin.

Q. And your address?

A. 4505 North Manor.

Q. That is in Chicago, isn't it?

A. Yes, sir.

Q. And your occupation?

A. Manufacturer.

Q. You are the Harry Koplin who is a brother-in-law of Arthur Kaplan, isn't that right?

A. That is right.

Q. How long have you been in the laundry machinery business?

A. Oh, about twenty years.

Q. You have been in Chicago, Illinois, have you?

A. No, not all of that time.

Q. How long have you been in Chicago?

A. About sixteen years.

Q. And at the present time you are the majority stockholder, are you not, of the Zephyr Laundry Machinery Company?

A. That is right.

Q. 2034 West Fulton Street, Chicago, Illinois?

A. Yes.

271 Q. What was your first connection with the Gold Medal Laundries, and in what capacity?

A. None whatsoever.

Q. You were not a creditor of the Gold Medal Laundries at one time?

A. No, but the Zephyr Laundry Machinery Company was.

Q. In September of 1939 was the Zephyr Laundry Machinery Company a corporation?

A. I don't remember. I will have to look up the records to see.

Q. Weren't you in partnership at that time?

A. I may have been in partnership.

Q. You and your partner were a conditional sales creditor, were you not, of the Gold Medal Laundries?

A. That is right.

Q. Did you own any stock in the Gold Medal corporation at any time?

A. None whatsoever.

Q. Did you ever furnish the funds necessary to purchase the stock of the Gold Medal corporation?

A. No.

Q. To any one?

A. No.

Q. You at no time, or any one on your behalf, acquired any part of the capital stock of the Gold Medal Laundries?

A. Not that I know of.

Q. Not that you know of?

A. That is right.

Q. Did you furnish any funds to any one for the purpose of acquiring such stock?

A. Not to buy any stock of the Gold Medal.

Q. I direct your attention to a gentleman by the name of Joe Feller, and ask you whether you know him?

A. Yes.

Q. Was he in your employ?

A. He used to be a salesman for us.

Q. When you refer to "us," you mean whom?

A. The Zephyr Laundry Machinery Company.

Q. When was he a salesman?

A. In 1939.

Q. Was he a salesman in June of 1940?

A. I think he was.

Q. Did you at that time or shortly prior to that time enter into any negotiations with Robert Millman in connection with the purchase of the capital stock of the Gold Medal corporation?

A. No, not directly.

Q. You at no time had seen him prior to that time?

A. Seen whom?

Q. Robert Millman.

A. Yes. I saw him.

Q. You know him, don't you?

273 A. Yes, I know him.

Q. Did you at any time prior to June 12, 1940,

Q. speak to Robert Millman in connection with the purchase of the capital stock of the Gold Medal corporation?

A. No.

Q. Did you speak to any one with respect to the purchase of this capital stock?

A. No, not on behalf of myself at all.

Q. On behalf of whom?

A. No one, that I know of.

Q. You said not on behalf of yourself.

A. Well, you asked me a question, and I answered it to the best of my ability.

Q. Shortly before June 12, 1940, isn't it a fact you had a meeting with Robert Millman at your office at the Zephyr Laundry Machinery Company, at 2034 West Fulton Street?

A. He came over a couple of times with reference to the Gold Meral Laundries.

Q. Was it specifically with reference to the sale of this capital stock to you?

A. No, it was never with reference to selling any capital stock to me, because I wasn't interested in buying any stock in any laundry.

Q. Joe Feller was the one that purchased the stock, as far as you know?

274 A. I think he bought some stock. We advanced some money to him.

Q. Under what arrangement?

A. I don't remember. It was a bookkeeping arrangement with the office.

Q. What arrangement did you have with Joe Feller, as far as the advancement of those funds was concerned?

A. Nothing, except he was to pay us back.

Q. There was no mention of the time or the manner in which it was to be paid back?

A. I think he still owes us nine hundred dollars, nine hundred some dollars.

Q. There hasn't been a single cent paid on this, as yet, has there?

A. There may have been. I am not sure. I haven't any knowledge as to that.

Q. Who has been advancing these funds to the Budget Launderers?

A. I couldn't tell you those items. I couldn't answer any one of those questions.

Q. Did you ask any one connected with the Budget Launderers to make any payments under this contract?

A. I think the Budget Laundry has been making some payments and charging that to Joe Feller. I don't know anything about that.

Q. You don't know anything about that?

275 A. I don't know anything you have asked me about the Budget Laundry. It would just be guessing on my part.

Q. You don't know anything about the Gold Medal Laundries either?

A. No.

Q. You know nothing about the capital stock purchases?

A. No.

Q. As a matter of fact, you know nothing about any contract in connection with the Gold Medal Laundries?

A. Nothing at all.

Q. The approximate amount you put into this organization in approximately one year was around fifty thousand dollars, is that right?

A. After the Budget Laundry opened?

Q. After the Gold Medal was created in September of 1939, for a period of one year thereafter, how much money did you put in?

A. I don't think I put in anything in the Gold Medal, but in the Unique and the Budget I think over fifty thousand dollars.

Q. The approximate amount of money you say you put into these contracts involving the Budget Launderers and the Chicago Laundry Building Company was approximately fifty thousand dollars?

276 A. I don't know how it was, but I think it was over fifty thousand dollars.

Q. Do you know anything about those contracts?

A. No, only that charges were made and charged to my account by the auditor in our office.

Q. Who handled these transactions?

A. Mr. Kaplan.

Q. You authorized him to handle the transactions?

A. He handled the transactions for me.

Q. Did you instruct him in any manner?

A. None whatsoever. I have never given him any instructions.



Q. You didn't know anything about these individual transactions prior to that time or after that time?

A. No. I think I looked over one contract.

Q. Which one was that?

A. That one whereby I agreed to buy up a mortgage on something and sell it back to them on some sort of a basis. I don't remember right now.

Q. Is that the contract of March 6, 1940?

A. It may have been.

Q. May I show it to you?

A. I have a head cold, and I can't remember very well. The Court: Perhaps you should not be examined 277 now, if you are not feeling well.

The Witness: I got out of bed to come here.

The Court: I don't want any witness to appear here under disability and be obliged to answer and be responsible for answers, if they are not in the best of health. I don't think it is fair.

Mr. Topper: I hadn't the slightest idea Mr. Koplin was ill.

The Court: I know it is not your desire to go ahead if the witness states he left a sick bed to come here. I am perfectly willing to put it over.

Mr. Topper: That is satisfactory to me.

The Witness: I would like to get through with it, because I would like to go to Florida.

The Court: Couldn't this matter go over for a week or ten days?

The Witness: That would be all right.

The Court: You see, in view of the nature of the charges and the innuendos that I gather from the questions, I would rather not have any witness say he is not in the best of health, and therefore make some contention afterwards. Now; my mind is still open, and I haven't arrived at any conclusions. I want to hear all the proof there is, but when a witness is under disability, as I 278 can readily observe this witness is, I think I would rather not go ahead with him.

Mr. Topper: I would rather withdraw this witness.

The Court: Isn't that your attitude?

Mr. Topper: Certainly it is.

The Court: Wouldn't you prefer it?

The Witness: I would prefer it, but I missed one hearing here, and I didn't want to miss another one.

Mr. Topper: We have about three more witnesses here today, and we have four more to go.

The Court: Do you want to go ahead with other witnesses now?

Mr. Topper: Yes, Judge.

The Court: I will give you another date now.

The Witness: If you can make it any time after a week from Monday, it would be fine.

The Court: February 10, in the morning.

The Witness: That will be all right with me.

The Court: That is February 10, on Tuesday.

Mr. Rosenfield: Can you make it ten o'clock?

The Court: Yes, February 10, at ten o'clock.

The Witness: Thank you very much.

(Witness excused.)

Mr. Topper: Mr. Millman, will you take the witness stand?

LOUIS MILLMAN was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Give us your name, address and occupation, please?

A. I didn't hear that.

Q. Give your name, please?

A. My name is Louis Millman.

Q. And your address?

A. 734 West Buckingham.

Q. That is in Chicago?

A. Yes.

Q. And your occupation at the present time?

A. Bookkeeper.

Q. Whom are you connected with?

A. I work for the Atlas Novelty Company.

Q. They are at 2200 North Western Avenue?

A. Yes, sir.

Q. In September of 1939, were you employed by the Gold Medal Laundry Company?

A. I couldn't recall. I may have been, and I may not, because I worked there off and on.

Q. To the best of your recollection, when was the first time you were employed by the Gold Medal Laundries?

A. Well, I worked steadily from 1934 to 1936.

Q. That is the Strand Laundry you are speaking of, is that correct?

A. Yes, and then I worked for the Gold Medal, and I can't recall whether I worked there in 1939. I think I did, because that was about the time they changed to the Gold Medal.

Q. When was that? Give me the approximate time, Mr. Millman.

A. The date you stated was about the time they changed to the Gold Medal name.

Q. Around September of 1939?

A. Yes.

Q. Did you work continuously for them thereafter?

A. No, I did not. I worked for them for some time, and then I had an argument there, and I left, and I came back to work there about two or three months before Mr. Koplin took over.

Q. Just about when would that be in 1940?

A. It must have been in the summer. Around June.

Q. You say that was the time Mr. Koplin took over?

A. Yes.

Q. Is that Harry Koplin you are referring to?

281 A. Yes.

Q. Shortly before that time you were engaged as a bookkeeper by the Gold Medal, were you not?

A. That is right.

Q. Tell us what your duties were in that connection, Mr. Millman.

A. I collected all the cash, and I kept all the books of original entry, and I settled up with all the drivers; all the duties a bookkeeper has, and handled the payrolls.

Q. Did you accept the cash from all the drivers?

A. Yes.

Q. How many drivers were there at that time, and how many routes?

A. At that time there were about twenty-four.

Q. Did you handle every driver, in connection with their records?

A. Yes. They all checked in with me.

Q. And the records that they turned over to you for checking purposes or for entry purposes, what kind of records were they?

A. Well, they didn't turn any records over to us. We

kept our own records in the office of every customer, and at the end of the week all these records were tallied, and each driver's totals were turned over to me.

282 Q. The records of the company were tallied against the individual records of the drivers?

A. Yes, sir. They kept their own route books.

Q. That is the only thing they had, their route books?

A. Route books and their tickets.

Q. Indicating the collections they had made or indicating the amount of work that they had brought in?

A. They indicated both the amount of work they brought in and the money that was to be collected.

Q. Who was employed as a bookkeeper with you during the period immediately preceding June of 1940?

A. No one.

Q. When did Ruth Korogodsky come into this picture?

A. Well, I think she worked there steadily after I left, and when I came back she was still working there.

Q. When did you leave?

A. It was after the Gold Medal was organized, some time between that time and when Mr. Koplin came in.

Q. You mean after the Gold Medal was organized?

A. I left after the Gold Medal was organized.

Q. The Gold Medal was organized in September of 1939?

A. Yes.

Q. When did you leave with reference to the year 1940?

A. Around June.

283 Q. Where were these records of Gold Medal kept, that is, on the physical premises?

A. Well, the records of the prior years were kept in a closet, and the records for the current year were kept out in the office.

Q. By prior years you refer to 1939 and the years prior to that time?

A. Yes, sir.

Q. Those records were kept where?

A. In a closet on the second floor of the building.

Q. And the current records for the year 1940 were kept where?

A. In the main office, in the center of the building.

Q. On the second floor?

A. Yes.

Q. And was that office partitioned off from the balance of the floor?

A. Yes.

Q. Who were working in that office at the time you left or immediately preceding that time?

A. After I left?

Q. At the time you left or immediately preceding.

A. At the time I left, there were Ruth Korogodsky and Evelyn Gelfond.

Q. What did she do there?

A. Evelyn?

Q. That is right.

284 A. She used to enter the sales tickets on to my sheets and summarize them and turn the figures over to me at the end of the week.

Q. Where were the records of the Gold Medal for the year 1940 when you left?

A. Right on the premises, in the office.

Q. That is the office you referred to?

A. Yes.

Q. Who was left in the organization after you left, that is, with respect to the office personnel itself?

A. When I was discharged, they hired a bookkeeper.

Q. What was her name?

A. I don't remember.

Q. Is that Pearl Nethanson?

A. It might have been. A blonde woman, rather stout.

Q. You say you were discharged. Who discharged you?

A. A man by the name of Silvert. He was there as the auditor for Mr. Koplin.

Q. Is that J. M. Silvert you are referring to?

A. It could possibly be.

Q. What conversation, if any, did you have with him with respect to your discharge, and tell us where and the persons present? Tell us what the conversation was.

A. Well, one morning he just came in and told me he thought I couldn't handle the job, and he asked me to  
285 leave. I knew that would come, as I was connected with the old plant, and I happened to be the owner's son.

Q. You are the son of Samuel F. Millman?

A. That is right.



Q. Did you take the books and records of the Gold Medal at the time you left in June of 1940?

A. No, sir. I left them in the office.

Q. Ruth Korogodsky was there at the time?

A. Yes.

Q. And Evelyn Gelford was there at the time?

A. Yes.

Q. Do you know whether or not at that time or immediately preceding that time any one of the Millmans had taken the books and records of the Gold Medal with them?

A. No. There was no effort made by any of us to take anything out of there.

Q. Did you have anything to do with the setting up of the new books and records in 1940?

A. No.

Q. Tell me, without referring to the original books and records, you have knowledge, in a general way, have you not, of all the entries that had been made in the original books and records of the Gold Medal at the time you left or immediately preceding that time?

A. I wouldn't say I knew all the general ledger entries, no.

Q. Let me ask you this: Were all the drivers' accounts settled at the time that you left?

A. What do you mean by "settled"?

Q. Were they all paid up?

A. Well, they paid up. They usually left a small balance every week, but they kept on paying in the funds.

Q. Mr. Millman, at the time that you left, were all the drivers paid up on all their outstanding accounts?

A. No.

Q. They did owe the Gold Medal?

A. Yes.

Q. There were securities that each driver deposited with the Gold Medal, is that correct?

A. Yes.

Q. Were they paid up at the time that you left or immediately preceding that time, and were the securities turned over to the drivers?

A. The drivers were not paid up.

Q. So that if any new books and records were set up, they would have to be drawn off the old books and records?



287 A. That is correct.

Q. You say J. M. Silvert told you at the time he discharged you that Mr. Koplin told him to tell you that?

A. No. He told me himself, but I assumed Mr. Koplin told him to.

Mr. Topper: I move to strike out what Mr. Millman says he assumed.

The Court: Yes. Do you know the amount of indemnity each driver was obliged to deposit?

The Witness: The majority were obliged to deposit one hundred dollars.

The Court: In cash?

The Witness: Yes, as security; as a security bond for the funds that they had.

Mr. Topper: Q. Did you in June of 1940 have any conversation with Mr. Harry Koplin with respect to your employment, Mr. Millman?

A. No, sir.

Q. Did you have any conversation with Mr. Arthur Keplan with respect to your employment?

A. I didn't ask him to keep me or fire me.

Q. The question is whether or not you had any conversation?

A. No. I had no conversation.

Q. Do you know, of your own knowledge, whether 288 or not any others in the employ of the Gold Medal were discharged at about that time?

A. I couldn't recall now.

The Court: You are not reluctant to tell us what occurred, are you?

The Witness: No, sir. I have no reason to be.

Mr. Topper: Q. In June of 1940, when you left, how many routes were there?

A. Twenty-four, I think.

Q. What was the average gross return from these individual routes for each route?

A. At what time?

Q. In June of 1940?

A. I would say about one hundred and ten to one hundred and twenty-five dollars.

Q. What was the total gross weekly around June or shortly prior to June of 1940 of all routes?

A. From three thousand dollars to thirty five hundred dollars.

Q. That is, weekly?

A. Yes.

Q. From September of 1939 until June of 1940, were there any new routes that had been acquired by Gold Medal?

A. No.

Q. Was there any reduction in the number of routes during that same period?

289 A. Possibly there could have been a reduction.  
Mr. Topper: That is all, Mr. Millman.

*Examination by the Court.*

Q. How old are you?

A. Twenty-six.

Q. Where did you get your bookkeeping knowledge?

A. Well, I attended the University of Illinois for a half year. I started there at the School of Commerce, and I attended Northwestern Evening School for three years. I have had three and one-half years.

Q. Of accounting and bookkeeping?

A. Yes.

Q. You are not a certified public accountant?

A. No.

Q. You never took the examination?

A. Not yet.

Mr. Topper: Further identifying these documents, Trustee's Exhibits 1, 2 and 3, I will ask you whether or not these are all the tickets that had been used by Gold Medal Laundries in June of 1940 or prior thereto?

The Witness: Yes, sir.

Mr. Topper: Your answer is "yes"?

The Witness: Yes.

The Court: Q. I want to get one thing clear. Were 290 you discharged or did you leave of your own accord?

A. I was discharged.

Q. By whom?

A. By Silvert.

Q. Who was Mr. Silvert?

A. Silvert was an auditor hired by Mr. Koplin to set up a new set of books for this firm.

Q. Did you remain there for any length of time to acquaint Mr. Silvert with the methods that had been employed previously?

A. Well, about one week. He did ask me a few questions to familiarize himself, and then, after he felt he was sufficiently familiar, he told me to leave.

Q. But during that week, he did, however, contact you with regard to the method then employed, the bookkeeping system?

A. Yes.

Q. Did he indicate to you that you were not qualified to act?

A. Well, he stated that I could not handle the job, and he told me I had to leave.

Q. What else did he say?

A. That is all.

Q. Did he give you any reason why you could not handle the job?

A. No.

Q. Had you been performing your work satisfactorily?

A. Yes.

291 Q. What is that?

A. Yes, I had.

Q. Were your books posted up to date?

A. Not when I came back.

Q. I know your relationship and I understand that, but I am trying to find out if there was a justifiable cause.

A. There was not.

Q. Had you been doing your work properly up to that time?

A. Yes, I was.

Q. What was your weekly wage?

A. I think I was earning about twenty-eight or thirty dollars a week.

Q. Is that all?

A. That is all.

The Court: That is all.

*Redirect Examination by Mr. Topper.*

Q. Did Mr. Silbert ask you any questions with respect to the books of the Gold Medal Laundries?

A. Yes, he did.

Q. Do you recall the nature of those questions?

A. He wanted to know the drivers' balances.

Q. The securities?

A. Yes. He drew off all the essential information in order to keep anything there that was of any value.

292 Q. When you say "drew off", do you mean he drew that off from the Gold Medal Laundries?

A. Yes, sir.

Mr. Topper: That is all.

*Further Examination by the Court.*

Q. I want this for the record, because of the request of the Government: Do you know, of your own knowledge, at this time where any of the books or records of the Gold Medal Laundries are located that were there when you left?

A. I do not. The last I knew of them was when I left the Gold Medal Laundries.

Q. You did not personally remove any journal, any cash book or any other record—

A. (Interrupting.) No, sir.

Q. (Continuing.) From which the Government might have knowledge of the extent of the business?

A. No, sir. I didn't have any reason to.

Q. Do you know, of your own knowledge, any one who might have done it? Did you hear any discussion about it at any time, about any books being lost?

A. No, sir.

The Court: All right. Do you want to ask anything?

293 Mr. Rosenfield: Yes.

*Cross-Examination by Mr. Rosenfield.*

Q. Let me ask you one of two questions, Mr. Millman. Was there a system of accounting had between the office and the drivers?

A. Yes, sir.

Q. What did that consist of?

A. Well, in the office we used to keep a record of each driver's business. By that I mean we used to receive the bundles downstairs and mark them in, and weigh them and price them, and then those tickets were brought in the office and they were entered on these sheets by these girls.

Q. Was that a settlement sheet?

A. Yes, sir, and at the end of the week the girls used

to turn the totals over to me, and I used to check up with the drivers.

Q. These settlement sheets were made up in how many copies?

A. At one time we made a copy, but we dropped it, and kept one.

Q. Did the drivers get a copy of the settlement sheet?

A. They used to get their tickets back, but they had access to those sheets.

Q. And those sheets reflected exactly the status of 294 the accounting between the drivers and the laundry?

A. Yes, sir.

Q. How often were the settlement sheets drawn?

A. Every week.

Q. On what day? On Saturday, wasn't it?

A. They were written up during the week, and they were completed on Saturday.

Q. The accounting for the week was on Saturday with the drivers, is that correct?

A. Yes, sir.

Q. Did that determine the status of the drivers' accounts with the laundry?

A. Yes, sir.

Q. Were you a stockholder in the Gold Medal?

A. I was not. Not that I know of.

Q. Did you ever pay any money to purchase any stock in the Gold Medal?

A. Nothing.

Q. Did you set up the original books of the Gold Medal corporation?

A. No.

Q. Who set those up?

A. I think it was Samuel H. Millman.

Q. Did you examine the original books of the Gold Medal corporation?

A. Did I ever examine them?

295 Q. Yes?

A. Well, I was not very familiar with the general ledger, as I stated before. I just wrote up the journals, and from that point I used to post them up, but after that Samuel H. did that.

Q. During the time you were employed by Gold Medal, did Gold Medal acquire any property or assets of any kind?

A. What do you mean by property or assets?

The Court: Do you mean real or personal?

Mr. Rosenfield: Let us take real first.

Q. Did they acquire any real estate or interest in real estate?

A. I think they tried to acquire the building they were operating in. I think they tried to re-acquire it.

Q. They tried to re-acquire it?

A. They purchased it on a mortgage.

Q. Whom was that bought from?

A. I can't remember that now.

Q. Are you sure they entered into an arrangement to purchase the building?

A. Yes..

Mr. Topper: I submit he has not testified he was certain they entered into any contract or any arrangement.

The Court: I appreciate he doesn't know. You had no direct hand in the transaction, did you?

296 The Witness: No, I did not.

The Court: It is just hearsay, isn't it?

The Witness: Just from what I saw that was going on, that is all.

The Court: Do you know whether your father made a gift to you of any stock? Is your father Samuel F.?

The Witness: Yes.

The Court: You are a cousin of Samuel H.?

The Witness: Yes..

The Court. And Robert, the attorney, is also a cousin?

The Witness: Yes.

The Court: Do you know whether your father had stock issued in your name for any number of shares?

The Witness: I don't know anything about it.

Mr. Topper: We have the stock certificate, Judge.

The Court: That is all right. One further question: Was it the practice of the drivers, as they came in each evening, to turn over their collections to the bookkeeper?

The Witness: Yes.

The Court: Is there a fixed salary for a driver?

The Witness: There is a salary, plus commission.

The Court: And when were they paid that? Weekly?

The Witness: Yes.

The Court: Now, if a man had not fully accounted  
297 for all of the laundry he took out and delivered, and at the end of the week on the settlement sheet his account was not square, he still got his salary, didn't he?



The Witness: Yes.

The Court: Plus commission, even though he was obligated on the amount of business he took out?

The Witness: Yes.

The Court: And you carried forward into the next week whatever balance he owed on his route?

The Witness: That is right.

The Court: Was it frequently the case that a driver owed more than the amount of his indemnity?

The Witness: Quite often.

The Court: Off the record.

Mr. Rosenfield: Q. When a driver made an indemnity deposit, how was that received? Did you receive that?

A. It was turned over to me, and I gave him a receipt for it.

Q. You gave the driver a receipt for it?

A. Yes.

Q. Was that receipt issued from a carbon duplicate in a book?

A. Yes, sir.

Q. Was there occasion during the time you were employed there to balance the account of a driver who was leaving the organization?

A. We naturally settled up with a man before we allowed him to leave.

Q. And the receipts which had been made out and which you delivered to the drivers were the evidence of the amount you had received as an indemnity fund?

A. Yes.

The Court: Off the record.

Mr. Rosenfield: Q. You say you were employed off and on, is that correct?

A. Yes.

Q. During the time the laundry was operated by the Strand Family Laundry Company?

A. Yes.

Q. And during the time it was operated by the Gold Medal Laundries?

A. Yes.

Q. You say that you left the employ of Gold Medal at one time because of a disagreement, an argument, you had?

A. Yes.

Mr. Topper: I submit that is immaterial.

The Court: An argument he had with whom? Was this before June of 1940?

299 The Witness: It was way before that.

The Court: You mean at an earlier period?

Mr. Rosenfield: Yes. The Court was asking questions with references to his leaving the employment.

The Witness: I don't see what this has to do with this case.

Mr. Topper: Just a moment. I don't see what it has to do with it, as far as the ownership of the assets is concerned.

The Court: No. Off the record.

Mr. Rosenfield: Q. Do you recall the last day on which you worked at the laundry?

A. I was laid off on a Monday, and I was paid for the week.

Q. What date was that?

A. I can't tell you that exactly.

Q. Approximately?

A. About the time I left in June.

Q. The latter part of June?

A. I can't tell you that now.

Q. The first part of July?

A. It might have been around that time. I can't remember offhand.

Q. What was the financial statue of the Gold Medal Laundries at the time you left the employment of the Gold Medal?

A. I didn't have access to their financial statements.  
300 I couldn't tell you that.

Q. You didn't know whether they were making money or losing money?

A. That is right.

Q. Did you receive your pay every week?

A. Yes.

Q. All the employees received their pay every week?

A. Yes.

Q. Had all the accounts payable been kept up?

A. Well, when I came back they were practically on a cash basis. They had very few accounts.

Q. When was that, that you came back?

A. What is that?

Q. When was that, that you came back?

A. Several months before Mr. Koplin came in. When I came back there were some accounts they owed. There is no question about that.

Q. You say they were practically on a cash basis before Mr. Koplin came in?

A. I am speaking only with reference to the purchases of supplies. As far as their indebtedness for other items is concerned, I wasn't very well acquainted with it.

Q. You didn't know much about the operation of the business then?

Mr. Topper: That is objected to.

301 The Court: He was just the bookkeeper.

The Witness: I told you I had no access to their financial statements, so how would I know?

The Court: You are not asking questions of counsel. Strike that question. It is impertinent.

Mr. Rosenfield: That is all.

*Redirect Examination by Mr. Topper.*

Q. Mr. Millman, on or about the time you were discharged, did you have any discussion with any one or did you hear any one discuss what they wanted or proposed to do with the books and records of the Gold Medal?

A. No, sir.

Q. You knew nothing about what the plans of any of the parties were with respect to the disposition of the books and records of Gold Medal?

A. No, I did not.

Mr. Topper: That is all, Mr. Millman.

The Court: All right.

(Witness Excused.)

302 RUTH KOROGODSKY was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Your name is Ruth Korogodsky?

A. That is right.

Q. And your address is what?

A. 2941 West Walton Street.

Q. Chicago, Illinois?

A. That is right.

Q. By whom are you employed at the present time?

A. Cardinal Launderers.

Q. Where are they located?

A. They are at 1757 West Grand.

Q. In what capacity are you employed by them?

A. General office work.

Q. Were you ever employed by the Gold Medal Laundry Company?

A. Yes, I was.

Q. When did you start working for them?

A. Well, I believe I worked for them about a year and a half.

Q. Do you recall approximately what time you commenced working for them?

A. No, I don't.

Q. Was it in the year 1939 or in 1940?

A. I believe it was in 1939.

303 Q. The latter part of 1939?

A. Yes.

Q. What were your duties in connection with that employment, Miss Korogodsky?

A. General office.

Q. Did you do any bookkeeping work?

A. No. None whatsoever.

Q. Did you do any work at all that would possibly involve drawing off information from books and records into others?

A. No.

Q. Did your work involve the receipt of information from any of the drivers?

A. Well, occasionally I used to take some of the turn-ins.

Q. By "turn-ins", you mean what?

A. Actual cash from the drivers.

Q. That was by way of assistance to Mr. Millman, is that correct?

A. That is right. I gave him the receipts.

Q. Did you ever make any of the entries into the original books and records?

A. No.

Q. The receipts were then turned over to the regular bookkeeper and he made the entries, is that right?

A. That is right.

Q. When did you leave the organization?

304 A. It was in August of 1940.

Q. Was that after or before Louis Millman left?

A. After.

Q. Were the books and records of the Gold Medal Laundry Company in the office at 2621 West Chicago Avenue during the period of time that you were there?

A. I believe they were.

Q. Well, you were in the office, were you not?

A. Yes, I was.

Q. Let us take July of 1940, and I will ask you whether or not the books and records of the Gold Medal Laundry Company were in the office at 2621 West Chicago Avenue?

A. Yes, they were.

Q. Now, just exactly what did you do in connection with these books and records in the month of July, let us say, of 1940?

A. I had nothing to do with the books.

Q. Didn't you remove them physically and place them in any certain place?

A. No. I never touched them.

Q. The great part of your work consisted of what?

A. Well, I mostly took care of the switchboard.

Q. And your work in July of 1940 was of the same character, was it not?

305 A. That is right.

Q. And your work in August of 1940 was also of the same character?

A. Yes.

Q. Who else was in the office in July and August of 1940, after Louis Millman had left?

A. Miss Pearl Nathanson and Miss Evelyn Gelfond, and I believe there was a new one. I don't remember her name. She was there after I left.

Q. Do you know where Pearl Nathanson lives?

A. No.

Q. Do you know where she lived at that time?

A. Yes. She lived at 2100 Lincoln Park West, I believe.

Q. Was she the regular bookkeeper at that time?

A. Yes, she was. She had full charge of the office.

Q. And Evelyn Gelfond, what were her duties, if you know?

A. Well, she figured up the drivers' statements and turned them over to the bookkeeper at the end of the week.

Q. Pearl Nathanson was the only one who made the entires in the books and records of the Gold Medal at that time?

A. That is right.

Q. Do you know where Evelyn Gelfond lives?

A. Yes. 5007 North Sawyer.

Q. Do you know whether or not she is still in the employ of the Budget Launderers?

306 A. No, she is not.

Q. By whom is she employed at the present time?

A. The Cardinal Launderers.

Q. Also the same organization you are employed by, is that correct?

A. Yes.

Q. Is that the laundry that was formerly the Grant Laundry?

A. Yes.

Q. When you left the organization, the books and records of the Gold Medal Laundries were still at the premises at 2621 West Chicago Avenue?

A. Yes, they were.

Q. And what time of the day did you leave, do you recall?

A. I don't recall.

Q. Who was in the office after you left?

A. I really don't remember.

Q. Well, who was in the office at the time that you left?

6 Was Pearl Nathanson there?

A. Yes, she was there. She discharged me.

Q. She discharged you?

A. Yes, sir.

Q. At the time that she discharged you, tell us what she said and what you said to her in connection with your employment.

A. She said my services were no longer required, 307 and I said nothing to her.

Q. Did she say whether or not she had been told to tell you that?

A. She said those were her orders.



Q. Did she tell you from whom she had received those orders?

A. No, and I didn't bother to ask her.

Q. Did she at any time thereafter tell you why she had discharged you?

A. No.

Q. Or mention the name of the party who discharged you?

The Court: Off the record.

Mr. Topper: Q. You didn't take the books and records of the Gold Medal, did you?

A. No, I did not.

Q. Do you know what happened to the books and records?

A. No, I do not.

Q. Did you have any discussion with anybody with respect to the disposition of the books and records of the Gold Medal?

A. No.

Mr. Topper: That is all.

Mr. Rosenfield: No cross-examination.

The Court: Now you are excused.

308 The Witness: Thank you.

(Witness Excused.)

ALBERT D. PINKUS was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. State your name, please.

A. Albert D. Pinkus.

Q. Mr. Pinkus, your business at the present time is what?

A. Office manager for the Zephyr Laundry Machine Company.

Q. That is the company that Harry Koplin owns?

A. That is right.

Q. In June of 1940, were you connected with any other organization?

A. No.

Q. Were you employed by the Zephyr Laundry Machinery Company at that time?

A. I was.

Q. Did you do any work in any other office than the Zephyr Laundry Machinery Company in June of 1940?

A. I don't know if you are referring to work I may have done for the Chicago Laundry Building. I was 309 there a couple of afternoons.

Q. That was when?

A. I couldn't fix the exact date. It may have been June or July of 1940.

Q. Who directed you to make that examination?

A. I didn't make any examination.

Q. What did you do?

A. I was asked to go there by Mr. Jack Silvert.

Q. Who is Jack Silvert?

A. He is a member of the firm of Hurvitz & Company, C. P. A.'s.

Q. Is he employed as an auditor by the Zephyr Laundry Machinery Company?

A. Yes, sir.

Q. Do you know who employed him?

Q. Is he employed as an auditor by the Zephyr Laundry Machinery Company?

Q. That is Harry Koplin, isn't it?

A. Yes, sir.

Q. J. M. Silvert directed you to do what?

A. He asked me to go out there and install the same kind of Social Security and payroll record that we had at our plant.

Q. You mean the Wages and Contributions reports submitted to the Government?

A. Well, just to fix up their payroll record. Just 310 to departmentalize the office, and so forth.

You mean in connection with the names of the individuals connected with the individual departments?

A. That is right.

Q. And the amount of moneys they received by way of salary?

A. I didn't fix that.

Q. Did you set up the forms?

A. I just set up the forms.

Q. The forms of Wages and Contributions reports?

A. I just set up the payroll book. I had nothing to do with the forms of the Unemployment Department.

Q. The forms from which the Wages and Contributions reports were made?

A. That is right.

Q. That was the only service you performed in connection with what company?

A. I believe at that time it was the Chicago Laundry Building Company.

Q. Fix as close as you possibly can—

The Court: (Interrupting.) Isn't that name the Chicago Building Laundry?

The Witness: No. The Chicago Laundry Building.

The Court: I see.

Mr. Topper: Q. Fix, as close as you possibly 311 can, when you did that?

A. Well, it was some time in July, I believe it was, of 1940.

Q. When you set up these original payroll records, did you draw off any information from any other records?

A. Well, I was given a list of names and told what departments they were in.

Q. Who told you that?

A. I don't remember his name. It was somebody downstairs that was helping me. He gave me the names and told me in what department I should put them.

Q. Did he read from any record at the time he gave you this information?

A. There were some other sheets there. There was a similar record there, but it was not like the kind I was setting up.

Q. In what part of the plant did this conversation take place?

A. This was in the office, but I mean the man that helped me was some kind of an overseer downstairs.

Q. He came into the office and brought in these records?

A. He gave me the names. He was familiar with their employees.

Q. Didn't you examine the records?

A. No.

312 Q. All you did was receive the information from this individual, and that is all?

A. Just the names. He had no figures at all.

Q. Did you make any other examination thereafter?

- A. None whatsoever.
- Q. How many times were you there?
- A. Two afternoons.
- Q. The only purpose for which you were there was to set up these payroll records?
- A. That is all.
- Q. Did you receive any compensation for that service?
- A. No.
- Q. You just did it gratuitously?
- A. Yes.
- Q. You are still in the employ of Mr. Koplin, is that right?
- A. That is right.
- Q. You don't do any work for any one else, do you?
- The Court. Off the record.
- (Witness Excused.)

Whereupon an adjournment was here taken to the hour of ten o'clock A. M., February 10, 1942.

314

BEFORE REFEREE IN BANKRUPTCY,

ARCHIE H. COHEN.

March 17, 1942,  
Ten o'clock A. M.

• • (Caption—76517) • •

### HEARING ON, TURNOVER PETITION.

Court re-convened in the above entitled cause, at the hour of ten o'clock A. M. March 17, 1942, pursuant to adjournment heretofore taken herein.

Present:

Same counsel as before, to-wit:

Mr. Russell J. Topper, appearing on behalf of the petitioning creditors and the trustee.

Mr. Ben Rosenfield, appearing on behalf of the respondents.

Mr. Eli Herman, appearing on behalf of creditor.

315 EVELYN GELFOND was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. State your full name, please?

A. Evelyn Gelfond.

Q. How do you spell your last name?

A. G-e-l-f-o-n-d.

Q. What is your home address?

A. 5007 North Sawyer Avenue.

Q. That is in Chicago, is it?

A. Yes.

Q. Are you presently employed, Miss Gelfond?

A. Yes.

Q. By whom?

A. The Cardinal Launderers.

Q. Where are they located at?

A. 1755 West Grand Avenue.

Q. I can't hear you.

A. 1755 West Grand.

Q. How long have you been employed by the Cardinal Launderers?

A. Since October 1.

Q. In what capacity?

A. General office work.

Q. That is, since October 1, 1941, is that right?

A. That is right.

Q. Prior to that time, by whom were you employed?

316 A. The Budget Launderers.

Q. Did you ever work at the premises 2621 West Chicago Avenue?

A. Yes.

Q. When did you first start working there?

A. Oh, ten years ago. In 1930.

Q. In 1930?

A. Yes, sir.

Q. By whom were you employed at that time?

A. By Samuel Millman.

Q. Was that the Strand Laundry?

A. The Strand Laundry, yes, sir.

Q. Did you continue in the employ of the Strand Laundry thereafter?

A. I did.

Q. Continuously?

A. Yes.

Q. For a period of ten years?

A. Yes.

Q. And in June of 1940 were you in the employ of the Gold Medal Laundries?

A. Yes, sir.

Q. In what capacity?

A. General office work.

Q. Will you tell us in some detail the nature of your work?

A. Well, it consisted mostly of sales sheets and switch-board.

Q. The sales sheets you refer to are the laundry drivers' sales sheets, is that right?

317 A. Yes, sir.

Q. And they were brought in daily?

A. Yes, sir.

Q. And they were set up daily by you?

A. Yes, sir.

Q. Did you have any assistants in June of 1940?

A. Yes.

Q. Who were they?

A. In 1940?

Q. That is right.

A. I am not sure, but I think Ruth Kordine.

Q. Was there any one else in the office of the Gold Medal Laundries in June of 1940?

A. Yes.

Q. Who were they?

A. Louis Millman.

Q. That is the young Millman?

A. That is right.

Q. Who else? Was Ruth Korogodsky in the office at that time?

A. I believe she was.

Q. Was Ella Rumanap in the office at that time?

A. I don't think so.

Q. Did—

A. (Interrupting.) Oh, I beg your pardon. I believe there was a Miss Nathanson at the time.



Q. Is that Pearl Nathanson?

A. Yes.

Q. Do you know of any change that took place in the laundry on or about June or July of 1940?

318 A. Well, I am not certain of the dates, but I do remember there was a change of employers there.

Q. Did you discuss your employment with anybody on or about June of 1940, that is, your continued employment in the same capacity at the same place?

A. No.

Q. Did any one talk to you about your employment when this supposed change took place?

A. No, sir.

Q. You just continued in the same employment, is that correct?

A. That is right.

Q. Up until October of 1941?

A. Yes, sir.

Q. Now, in June of 1940, before the supposed change took place, you were working on the records of the Gold Medal Laundries, were you not?

A. I believe so.

Q. And the preparation of these sales sheets?

A. Yes, sir.

Q. Did you make any entries in any books or records of any kind?

A. No, sir.

Q. Did you enter the sales sheets into the books or records?

A. No, sir.

319 Q. Where did they keep the books and records of the Gold Medal Laundries, if you know, that is, with reference to the plant itself?

A. Well, we had another adjoining office. That was the bookkeeper's office, and all the books were kept in their.

Q. Was that on the second floor?

A. Yes.

Q. And your office was partitioned off from the rest of the floor, is that right?

A. That is right.

Q. These sales sheets, were they described in any manner at the heading?

A. Well, every driver had a sheet, and the driver's number was on the sheet.

Q. And the name "Gold Medal Laundries" was also at the top of the sheet?

A. Yes, sir.

Q. What did you do at the end of each day with these sheets?

A. Locked them in the safe.

Q. You locked them in the safe?

A. Yes, sir.

Q. And in that safe were there any other books or records of account of the Gold Medal Laundries?

A. All the important books were there.

320 Q. All of the current books were there?

A. Yes, sir.

Q. And that safe was in your office, is that right?

A. Yes, sir.

Q. Now, then, do you know when Samuel F. Millman left the Gold Medal Laundries?

A. I don't know the exact time.

Q. Do you know the approximate time?

A. I am afraid I don't. I would be making a bad guess.

Q. Were you under his supervision?

A. At which time?

Q. June or July of 1940? Do you know approximately when Samuel F. Millman left the Gold Medal Laundries?

A. It might have been about 1940.

Q. Do you recall whether it was in the months of June, July, August or September? Tell us approximately when it was, if you know.

A. I am not certain, no.

Q. Allow me to refresh your recollection. Was it on or about August of 1940?

A. I believe it was warm at that time. It might have been. It was not cold then.

Q. Your best recollection is that it was that period of the year when it was warm?

321 A. Yes.

Q. You continued in their employ thereafter?

A. Yes, sir.

Q. And your duties were the same? You continued the same duties of keeping the Gold Medal Laundries' daily sales sheets?

A. Yes, sir.

Q. And you continued to place them in the safe?

A. Yes, sir.

Q. When was the last time that you saw the Gold Medal records, with reference to the year 1940? After Samuel F. Millman left the premises, when was the last time you saw the Gold Medal records?

A. By that, do you mean actually the same Gold Medal?

Q. Actually the same Gold Medal records.

A. I don't know the exact date. I know it was a short time after he left.

Q. Would you say it was a month, two months or several weeks?

A. I would say it was several months.

Q. You would say it was several months?

A. Yes.

Q. Did you see these records in the office or in the safe?

A. Well, these records were not kept more than a period of several months, because the totals were entered in the books, and the sheets were thrown away periodically.

Q. Did you carry over any memoranda of the Gold Medal Laundries' records into the books and records of the Budget Laundry?

A. No.

Q. Or the Unique Laundry?

A. No.

Q. You simply prepared those original memoranda, that is, the daily sheets, and nothing more?

A. That is right.

Q. Did you remove the books and records or these daily sheets of the Gold Medal Laundries at any time after Samuel F. Millman left?

A. No.

Q. Do you know of any one who removed those books and records?

A. No, sir.

Q. Do you know whether or not Samuel F. Millman removed them?

A. No.

Q. Do you know whether or not Louis Millman removed them?

A. No.

Q. Did Mr. Harry Koplin give you any directions at all in the months of June or July, in respect to your employment? I am speaking of June or July of 1940.

A. No, sir.

323 Q. He was the one that had bought the business at the time of the supposed change in the summer of 1940.

A. I know Mr. Koplin was the employer there, but he wasn't there very much. Mr. Kaplan was there.

Q. The Koplin you refer to is who?

A. Harry Koplin.

Q. And you refer to Arthur Kaplan?

A. Yes. He came into the office quite often, and if there were any orders to be taken, I took them from him.

Mr. Topper: That is all.

The Court: Any questions?

Mr. Rosenfield: Just one or two questions.

*Cross-Examination by Mr. Rosenfield.*

Q. You say you do recall that Arthur Kaplan came into the office frequently after June of 1940?

A. Yes, sir.

Q. And you took your orders from him?

A. Yes, sir.

Q. Now, the sheets you are referring to are the drivers' sheets, the daily records?

A. Yes, sir.

Q. You would keep those for how long before you destroyed them?

324 A. Oh, until they piled up and there was no more room in the safe. Then the boy used to come up and throw them away.

Q. The information from those shetes was transferred into their records?

A. Yes, sir.

Q. And there was no need to keep those sheets?

A. No.

Q. Now, when counsel asked you if you saw the records around there after Louis Millman left, were you referring to these drivers' sheets?

A. No.

Q. What were you referring to?

A. The books and records of the firm.

Q. I just wanted to get that straight. How had you been paid when you were employed by Mr. Millman or the Strand Family Laundry or the Gold Medal Laundries?

A. You mean the amount?

Q. No. Were you paid by cash or check?

A. I got a check, but I used to turn it into the office and take my cash.

Q. That was true of the Gold Medal?

A. Yes.

325 Q. When Mr. Arthur Kaplan began appearing at the office, did you receive checks from the Chicago Laundry Company?

A. Yes, sir.

Q. And then from the Unique Laundry and the Budget Laundry?

A. Yes, sir.

Q. There was no question in your mind for whom you were working at the time the change was made?

A. No.

Q. You had been in that office and in that line of business for about ten years?

A. Yes.

Q. You are considered an expert in that line of business, is that correct?

A. Yes.

Q. I imagine that is the reason your services were retained?

A. Yes.

Q. You say you turned in your checks when you received your salary checks at the office?

A. Yes.

Q. What was the reason for that?

A. Oh, no reason. Just to get the cash for it, that is all.

The Court: You did not get a lesser amount than the check called for?

326 The Witness: No.

The Court: You merely did that as a convenience to yourself?

The Witness: That is right.

The Court: You were not the cashier, were you?

The Witness: No.

The Court: At that time someone else gave you cash, and you endorsed the check?

The Witness: That is right.

The Court: Do you still do the same thing?

The Witness: Here? At the Cardinal Launderers?

The Court: Yes.

The Witness: Yes, I do.

The Court: All right.

Mr. Rosenfield: I think that is all.

Mr. Topper: Just one more question.

*Redirect Examination by Mr. Topper.*

Q. Had you at any time heard Harry Koplin or Arthur Kaplan ever discuss the location and the whereabouts of the records of the Gold Medal Laundries?

A. No, sir.

Mr. Topper: That is all.

327 Mr. Rosenfield: That is all.

The Court: You did not personally destroy any of these papers yourself?

The Witness: No.

The Court: Some young man did that?

The Witness: Yes.

The Court: Did you pull out of the safe papers that were to be periodically disposed of?

The Witness: Yes. If I wished to throw them away, I would take them out myself sometimes.

The Court: What did they do with them? Burn them or bale them and sell them as old paper, or did they put them in the furnace?

The Witness: I think the boy took them in the boiler room.

The Court: All right.

(Witness excused.)

328 FRED MOORE was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Will you state your name, please?

A. Fred Moore.

Q. Fred Moore?

A. Yes, sir.

Q. And your address, please?

A. Business or home?

Q. Home.

A. 6829 Paxton Avenue.



Q. That is in Chicago, is that right?

A. Yes, sir.

Q. What is your business address?

A. 1021-1031 South Pulaski Road.

Q. Is that the location of the Kent Cleaners & Dyers, Inc.?

A. That is the location of our plant. Our executive office address is 1101 South Pulaski Road.

Q. Are you connected with the Kent Cleaners & Dyers, Inc.?

A. Yes, sir.

Q. In what capacity?

A. As manager and a stockholder.

Q. As manager and stockholder?

A. Yes, sir.

Q. Are you an officer of the corporation?

A. No, sir.

Q. Who is Joseph A. Morris?

329 A. He is the president of the company.

Q. Is he the majority stockholder?

A. No, sir.

Q. Do you know Harry Koplin?

A. Yes, sir.

Q. Did you know him in June of 1940?

A. Yes, sir.

Q. And you knew him prior to June of 1940, is that right?

A. Yes, sir.

Q. You have been doing business with him for a long time?

A. Yes, sir.

Q. In 1940 were you general manager of the Kent Cleaners?

A. Yes, sir.

Q. You were not an officer at that time?

A. No.

Q. Was Joseph Morris president at that time?

A. Yes, sir.

Q. Was it you or Joseph Morris who had the dealings with Mr. Harry Koplin?

A. I would like to have you clarify what you mean by dealings, sir. What kind of dealings?

Q. Dealings of any kind.

A. Well, in all dealings that were ever had with Mr. Harry Koplin, I was the one that handled them.

Q. Did you know anyone connected with the Gold 330 Medal Laundries in 1940?

A. I didn't know anything about the Gold Medal Laundries, no, sir.

Q. Did you have any arrangement or any deal with Harry Koplin in June of 1940 with respect to any laundry presses?

A. No, sir. W

Q. Have you had a deal or an arrangement with Mr. Harry Koplin since June of 1940 with respect to the purchase of laundry presses?

A. No, sir.

Q. Have you had a deal with Mr. Harry Koplin with respect to any laundry machinery since June of 1940?

A. Yes, sir.

Q. That was in connection with what?

A. There was a dry cleaning washer which I purchased. Of course, as to the Kent Cleaners & Dyers, I would answer no. Are these questions that you are asking me with reference to the Kent Cleaners & Dyers, Inc.?

Q. When I refer to you, I refer to the Kent Cleaners & Dyers.

A. The answer is no.

Q. Did you individually, have any deal with Harry Koplin since June of 1940 with respect to the purchase of any laundry machinery?

A. No, sir.

331 Q. Did you sell any laundry machinery to Harry Koplin since that time?

A. No.

Q. Have you had any deal or arrangement in which Harry Koplin was either active as an agent or had an interest in since June of 1940, with respect to laundry machinery?

Mr. Rosenfield: I object to the line of questions with reference to laundry equipment generally, without referring specifically to the subject matter we are interested in.

The Court: Well, I don't know. I am not a clairvoyant. I don't know the purpose of this examination. I am allowing him wide latitude.

Mr. Topper: If I can't connect it up, we will strike all the testimony in regard to the Kent Cleaners.

Mr. Rosenfield: I will say this: Mr. Koplin's capacity as the operator of a laundry machinery manufacturing plant has nothing whatsoever to do with the operation of any laundry. These questions are far afield.

The Court: I don't know how they are pertinent or how they are to be connected up, but I will let him answer.

The Witness: Will you pardon me just a minute? Your Honor, am I answering questions as a representative of the Kent Cleaners & Dyers, Inc. of Chicago, or am I answering questions as a personality, one Fred Moore?

332 Mr. Topper: Let us not get technical about it. We will get to both of you.

The Court: The attorney will make it clear to you.

Mr. Topper: Q. I am talking about the Kent Cleaners in every one of my question, until I direct you otherwise. My questions will refer directly and solely to the Kent Cleaners.

A. All right.

Q. By the way, how many Kent Cleaners are there in the country, Mr. Moore?

A. There must be a dozen.

Q. How many of which you are general manager?

A. Just one.

Q. How many of which Joseph Morris is president?

A. Just one.

Q. How many in which Joseph Morris is the chief stockholder, if you know?

A. I told you Joseph Morris was not the chief stockholder of the Kent Cleaners.

Q. I understood you to say he was the majority stockholder.

A. No.

Q. He is president?

A. He is just president.

Q. Is he a stockholder, if you know, in any other  
333 Kent Cleaners in the United States?

A. Not to my knowledge, no, sir.

Q. Did you in the year 1940 ship any laundry presses down to Florida?

A. No.

Q. Did you in the year 1941 ship any laundry presses down to Florida?

A. No, sir.

Q. Did you at any time in the past three years, since September of 1939, ship any laundry presses down to Florida?

A. No, sir.

Q. Now I am speaking of you personally, and I will ask you whether or not you had any deal or arrangement with Mr. Harry Koplin since September of 1939, with respect to the purchase of any laundry machinery?

A. No, sir.

Q. Did you at any time or did the Kent Cleaners; if you know, since September of 1939 remove any laundry presses from the premises at 2621 West Chicago Avenue?

A. No, sir.

Q. Did you remove any laundry machinery since September of 1939?

A. No, sir.

Q. Did the Kent Cleaners or you or anyone in their behalf remove any laundry presses or laundry machinery from the premises at 2621 West Chicago Avenue at any time since September of 1939?

A. No, sir.

Q. Did the Kent Cleaners ever receive laundry presses or laundry machinery that were located at the premises at 2621 West Chicago Avenue, at any time since September of 1939?

A. No, sir.

Q. Did the Kent Cleaners ever acquire in any manner any of the machinery or equipment or any of the laundry machinery and equipment located at these premises I refer to?

A. No, sir.

Q. You had no deal, that is, either you or the Kent Cleaners, of any kind or character with Harry Koplin or anyone with whom Harry Koplin was connected since September of 1939, is that correct?

A. That is correct.

Q. And you have no books or records which relate to any such transactions?

A. No, sir.

Mr. Topper: That is all.

Mr. Rosenfield: No questions.

Mr. Topper: I would strike all this testimony, but I

do wish it to remain in the record because I wish to  
335 make verification, and if I am unable to make verification, then I will strike it all from the record.

The Court. All right.

(Witness excused.)

HARRY W. CLINE, the trustee herein, was called as a witness on his own behalf, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Your name is Harry W. Cline?

A. Yes, sir.

Q. What is your home address, please?

A. 1368 Sedgewick.

Q. And your business address?

A. 105 West Adams Street.

Q. You are the trustee of the Gold Medal Laundries, the bankrupt?

A. I am.

Q. You have been acting in that capacity since September of 1941?

A. That is right.

Q. Did you make an examination of certain machinery and equipment at 2621 West Chicago Avenue?

A. I did.

Q. When did this examination take place?

336 A. Oh, approximately three weeks ago.

Q. At whose instance did you make such examination?

A. At your request.

Q. Do you recall the instructions you received at that time with respect to this machinery?

A. Yes, I do.

Q. Will you tell the Court what I instructed you to do, Mr. Cline?

Mr. Rosenfield: I will object to that. I don't see what that has to do with us, what instructions he received.

Mr. Topper: If it is immaterial, we will strike it. We don't want to have immaterial evidence in this record, and I am quite sure this won't be immaterial.

The Witness: Shall I answer?



Mr. Topper: Q. Yes.

A. You asked me to inspect the two rectifying tanks and the heat reclaimer, to determine whether or not their removal from the building would damage the real estate, and I say no, it would not. They are not connected at all, and they are not part of the real estate.

Q. Let us take the heat reclaimer. Tell the Court the manner in which that heat reclaimer is attached or affixed to the real estate there.

The Court: He doesn't have to do that. He says 337 they can be removed without damage to the building, and that is enough for me.

Mr. Topper: But I do wish this of record, to show how it sits on the floor.

Q. It has no cable connection and no wire connection at all?

A. No. It is on a base that I wouldn't say is more than that thick (indicating).

The Court: Indicating ten feet?

The Witness: No.

The Court: Fourteen inches?

The Witness: Yes. And they are not even bolted to the floor.

Mr. Topper: Q. There are no cables?

A. No.

Q. And you are referring to what machinery? The rectifying tanks and what else?

A. I am talking about the rectifying tanks and the reclaimer and the brass pipes that take the waste water after it has been used and heat the water that is coming in from the city water main. They are screwed together. The pipes are screwed together, and all you have to do is loosen the joint and take it out.

Q. So that the heat reclaimer, the softener and the 338 rectifying tanks are in no manner cabled or connected to the ground on which they rest?

A. No.

Mr. Topper: That is all.

The Court: Any questions?

*Cross-Examination by Mr. Rosenfield.*

Q. Do you know, Mr. Cline, when the rectifying tanks and heat reclaimer were placed in the building?



Mr. Topper: That is objected to, as beyond the confines of the direct examination.

The Witness: No.

The Court: He has answered: "No".

Mr. Rosenfield: Q. Do you know when that building was constructed?

A. No.

Q. Do you know the purpose for which the building was constructed?

A. No, sir.

Q. Did you make an examination of any part of the premises below the surface of the ground?

A. I did.

Q. How did you make that examination?

A. We lifted up the removable boards that were in the floor.

339 Q. Describe the part of the laundry that was.

A. It was the part I would call the garage. It was where the trucks came in.

Q. What did you remove?

A. There are slabs there that they take up with a hook.

Q. Did you take up those slabs?

A. The engineer did for me.

Q. Then what did you do?

A. I looked at it.

Q. Did you go down below?

A. Oh, no, I did not.

Q. Your examination was made from the outside, looking in?

A. On the floor.

Q. Did you make any examination below the surface of the plant?

A. No, I did not.

Q. That was the extent of your examination?

A. That is right.

Q. Where is the heat reclaimer situated with reference to the building?

A. Well, I was in the part of the laundry that you might call the garage. It was where the trucks were, because we had to move two or three trucks before we could lift up these slabs and look at the reclaimer.

Q. Is that where you saw the reclaimer?

A. That is right.

340 Q. How much of the reclaimer did you see when the slabs were picked up?

A. I should say about one-third of it. . .

Q. What would your opinion be of the one-third of it, as to its dimensions?

A. I should say it was about ten feet long.

Q. You mean the total over-all length is ten feet, or is that the portion you saw?

A. Really, I didn't measure it. I am just giving you what I think. And it is about six feet wide. It may be fifteen feet long.

Q. The portion you saw is between ten and fifteen feet long, is that right?

A. That is right.

Q. And about three feet wide?

A. I said six.

Q. Six feet wide?

A. That is right.

Q. That constitutes about one-third of the total length and width of the whole reclaimer? Is that your statement?

A. I didn't say anything about one-third. I said the thing was ten feet long and six feet wide.

Q. Did you see all of it?

A. I saw what I could see when the engineer had lifted up these slabs. He wasn't too anxious to life them up for me.

Mr. Rosenfield: That is not the question. I move 341 that that be stricken.

The Witness: You are asking me a lot of things, and I want to answer you.

Mr. Rosenfield: I ask that this witness be advised to answer the questions.

The Court: You are inferring by your questions that he might not have been there, and that is why you have aroused resentment.

Mr. Rosenfield: There is no such intention.

The Court: The witness is doing the best he can. He told you his difficulty in seeing it and getting the exact dimensions, because of the unwillingness of the man to aid him. The record may show that, for whatever it is worth.

Mr. Rosenfield: Q. You are referring to the heat reclaimer when you are describing this, are you?

A. That is right.

Q. Now, in reference to the rectifying tanks, those are water softening tanks?

A. That is right.

Q. Where are those located?

A. Those are in the boiler room.

Q. How many are there?

A. Two.

Q. What are their sizes?

A. They are about eight feet in diameter and about nine feet tall.

342 Q. What is their construction?

A. Steel.

Q. How are they affixed to the building?

A. They are not.

Q. Describe their situation.

A. They stand on a base. I described that before, if you will remember. It is about fourteen inches in diameter. They are not even bolted to the floor.

Q. What material is the construction of the base?

A. Steel.

Q. Are both rectifiers similar?

A. They are similar, except that the engineer told me that one was filled with refinite, and the other was not. Refinite, as I understand it, is a very valuable filling.

Q. These are located in the boiler room, are they?

A. That is right.

Q. Is there any opening in the boiler room large enough so that these could be removed through it?

A. Oh, by removing a section as far as this, you could take them out (indicating).

Q. How far is that?

A. Right there (indicating).

Mr. Topper: A foot and a half.

The Court: Two feet.

Mr. Topper: Two or two and one-half feet.

343 Mr. Rosenfield: Q. By taking out a section of the wall two and one-half feet in size, you could take out the rectifiers?

A. Yes.

Q. Would you say it would cause no damage to the real estate to do that?

A. You could build it back at a cost of fifty dollars.

Mr. Rosenfield: That is all.

Mr. Topper: That is all.

(Witness excused.)

HARRY KOPLIN was called as a witness by the trustee, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Topper.*

Q. Will you state your name, please?

A. Harry Koplin.

The Court: He was excused, and is back again.

Mr. Topper: Q. You have already testified in this proceeding, have you not, Mr. Koplin?

A. Yes.

Q. In September of 1939 you were associated with 344 the Zephyr Laundry Company, were you not?

A. Yes.

Q. Was the laundry company a corporation at that time?

A. It may have been. I don't know.

Q. It might have been a partnership, is that right?

A. We had a corporation and a partnership.

Q. Both operating the same type of business?

A. Yes, sir.

Q. You were the president of the corporation?

A. Yes.

Q. And the principal stockholder, is that right?

A. That is right.

Q. At that time were you a creditor of the Gold Medal Laundries? When I speak to you, I mean the Zephyr Laundry Company.

A. Yes.

Q. A conditional sales creditor?

A. Yes.

Q. You had prior to September of 1939 sold some laundry machinery and equipment to the Strand Family Laundry, is that right?

A. Yes.

Q. The same machinery and equipment was carried over into the Gold Medal, was it not?

A. No. There were changes made in that equipment. It was repossessed and some additional equipment added.

345 Q. What equipment was repossessed on or about September of 1939, after the bankruptcy proceedings of the Strand Family Laundry?

A. I can tell by the record. There is a list about a page long.

Q. Was that repossessed by you?

A. Yes.

Q. Can you name the items themselves? Let us take the presses first.

A. Oh, there are no presses there.

Q. Let us take the tumblers.

A. There are no tumblers there.

Q. Name something else.

A. Washers, extractors and flat work ironer. Oh, there were a few presses, that is right. The list was about a page long, consisting of thirty or forty items.

Q. That was the machinery and equipment of the Zephyr Laundry Company?

A. That is right.

Q. Was that repossessed during the bankruptcy proceeding or after the bankruptcy proceeding?

A. I don't remember whether it was during or after.

Q. Do you know whether or not they filed a petition in the bankruptcy proceeding for repossession of this equipment?

346 A. A reclamation petition was filed, I think.

Q. Is that the proceeding you are talking about, which resulted in a repossession of this machinery and equipment?

A. Yes.

Q. Do you know whether or not the Court had entered an order directing repossession?

A. I don't remember.

Q. Isn't it a fact the Court did not enter any order of repossession?

A. I don't remember.

Q. Whom did you send to repossess the machinery and equipment?

A. Our attorneys.

Q. Who were they?

A. Kaplan & Rosenfield.

Q. And was that done?

A. I am not familiar with the practice of law.

Q. Did you authorize Mr. Kaplan to take the machinery and equipment?

A. How do you mean?



Q. Whom did they turn the machinery and equipment over to in September of 1939?

A. If I am not mistaken, the receiver requested that the equipment be allowed to remain there, so that the plant could operate under a receivership. The removal of the 347 equipment would have stopped the operation of the plant. The usual procedure is, unless they are closed down, that equipment must remain there. The court has held we must leave it there while they are in possession.

Q. That is what happened at that time, isn't it, with the Gold Medal Laundries?

A. Yes, I think so.

Q. There was not any repossession of the machinery and equipment?

A. What do you mean?

Q. Was there any physical removal by the Zephyr Laundry Company of the laundry machinery and equipment that it owned from the premises?

A. Some of it was removed.

Q. How much?

A. I don't remember.

Q. Was it this long list you were talking about?

A. Not all of it. Some of it was.

Q. Just a few small items?

A. No. Some washers were removed and a flat work ironer was removed.

Q. How many washers were there on the premises in September of 1939?

A. I don't remember. There may have been eight or ten.

Q. How many washers would you say were removed?

348 A. Two or three were replaced, I think.

Q. What else had been removed?

A. There may have been an ironer, for all I know.

Q. By whom was it removed?

A. By a trucking company.

Q. That trucking company was employed by you?

A. Yes.

Q. What is the name of that trucking company?

A. The R. F. Trucking Company.

Q. They do all your trucking, do they not?

A. No.

Q. They did in that year?



A. They did that job, I remember.

Q. You authorized them to pick up this stuff?

A. Yes, whatever stuff was picked up.

Q. And the rest of the machinery and equipment remained there?

A. It remained there.

Q. Was any claim—withdraw that.

A. You might finish your question.

The Court: Gentlemen, let us not have any of this. Off the record.

Mr. Topper: Q. Mr. Koplin, I show you Trustee's Exhibit Number 8, which has already been admitted 349 in evidence, and ask you whether or not the signature that appears on the second page is your signature?

A. Yes. Subject to minor details, that is right.

Q. The notation or comment made at the base is also in your handwriting?

A. Yes, sir.

Q. Did you read this commitment shortly before or at the time you changed this contract?

A. Yes, I did. That is why I changed it and said "subject to corrections or changes", because I was not satisfied with it.

Q. Who prepared this contract?

A. I am not sure whether our firm prepared it or Millman prepared it.

Q. The Millman you refer to is which one?

A. Robert Millman. I am not sure, but one of the two prepared it.

Q. Is Robert Millman the man that you had negotiated with before the preparation of this commitment?

A. No. I had no negotiations with Millman.

Q. You knew nothing about the negotiations which resulted in this contract?

A. No. Frequently they would draw up an arrangement and submit it to me, and that is what they submitted.

350 Q. When was the first discussion with respect to the subject matter of this contract or commitment, rather?

A. I think Mr. Zarovsky, who was a brother-in-law of the Millmans, met me and discussed it. It is hard for me

to remember back that far. I think Mr. Zarovsky was the one.

Q. That is Joe Zarovsky, is it not?

A. Yes.

Q. Did you have any negotiations or conversations with any one else in connection with this commitment?

A. I think he had Mr. Samuel Millman along with him, and another Millman.

Q. Is that Samuel F. Millman, the younger Millman?

A. There are three of them. One of them is the father of Bob Millman, and the other is the uncle of Bob Millman, and the other is the brother of Bob Millman.

Q. Samuel H. Millman and Robert Millman are the two that were there?

A. No. Not Robert Millman. "Little Sam" and "Big Sam" is what they were known as.

Q. Robert is the attorney, and Samuel H. Millman is the brother of Robert Millman, the attorney, is he not?

A. They are both Samuel Millman, and I can better describe them by one being a brother of Robert Millman, and the other is his uncle.

Q. The brother of Robert Millman is Samuel H. 351 Millman, isn't that right?

A. Yes.

Q. He is the accountant?

A. That is right.

Q. Samuel F. Millman is the one associated or the one that had been associated with the Gold Medal Laundries?

A. Both of them were associated with the Gold Medal Laundries.

Q. I know it. I will identify each one.

A. All right.

Q. Samuel F. Millman was the Samuel F. Millman connected with the Gold Medal Laundries?

A. That is right.

Q. He is the uncle of Samuel H. Millman?

A. That is right.

Q. And Samuel H. Millman is the brother of Robert Millman, the attorney?

A. That is right.

Q. Now, this other Samuel Millman who is the father of Robert Millman, is that the Samuel Millman you refer to?

A. Yes.

Q. Can you tell us with whom you had your next conversation with respect to the subject matter of this commitment of November 21, 1939?

A. I don't remember.

Q. Did you have any conversation?

352 A. I am quite sure there was a conversation, but I don't remember whom it was with.

Q. You participated in each one of these conversations, did you not?

A. Only the first and the second, and after that I had no other conversation with them.

Q. Let us take the conversation that you first had with respect to the subject matter. Tell me what the conversation was and tell me, as near as you possibly can recollect, what you said and what the parties said.

A. Could I refresh my memory with that?

Q. Surely.

A. This is in substance what the general conversation was about, this letter.

Q. There were not any modifications of your discussion, were there? I mean substantial modifications?

A. Yes, quite a few substantial modifications.

Q. Let us take the last conversation that you had with these parties with respect to the subject matter of that commitment. Tell me what that conversation was.

A. I don't remember.

Q. As near as you can recollect.

A. In other words, they wanted me to do everything, and they were to do nothing.

353 Mr. Topper: I ask that be stricken, as not responsive I asked him what they said. I want this record to be clear.

The Witness: All right.

Mr. Topper: Will you kindly read the Court what my question was, and the response to it?

(Whereupon the question and answer were here read by the reporter.)

The Court: It may be stricken, as a conclusion of the witness.

Mr. Topper: Q. What were you required to do, or, rather, tell us what the conversation was.

A. The conversation was that they wanted me to do everything in this commitment for the loan, which was not in accordance with the conversation that I had with them

previous to that. There were certain changes to have been made in this commitment. What they were I don't remember right now.

Q. Let us get down to facts now, Mr. Koplin. Was any reference made to the amount of money you were required to loan under that commitment?

A. No. There was no definite amount, but each item was to be taken up separately. In other words, sufficient money was to be lent to buy the equity acquired at a 354 receivership sale by a man named Ginsburg.

Q. Was there any indication at that time as to the amount of funds that it would be necessary for you to loan to purchase this interest? Was that discussed?

A. No, it was not, due to the fact that I did not think a deal had been made at that time with the First United or First Division Finance Company as to the amount they would take for their bonds and equipment that they had in the plant.

Q. I asked you a question relating to the amount of money that it would be necessary to pay Mr. Morris Ginsburg. I did not ask you anything with respect to the First United Finance.

A. I am sorry. I misunderstood your question.

Q. Will you refresh your recollection by examining that document?

A. It was around five thousand dollars at that time.

Q. And the amount of money it would be necessary for you to loan under this commitment to liquidate the interest of the First United Finance Corporation would have been how much?

A. There was no definite amount at that time. They put an amount down, I see, according to this, in the neighborhood of twenty-thousand dollars. Mr. Frieder told me over the phone he had no definite amount set with 355 them, and it was subject to negotiation as to what he would take for his interest in the real estate and the other things he had.

Q. The amount that was mentioned at that time was, in round figures, twenty thousand dollars, is that right?

A. That is right.

Q. Do you recall whether or not there was any discussion with respect to the manner in which title was to be taken to these various interests?

A. I don't quite understand your question.

Q. Who was to hold the title or ownership to the interest that was acquired through the moneys you would loan? I refer specifically to the interest of the First United Finance Corporation and that of Morris Ginsburg.

A. I don't remember. I think I was to buy the mortgages and contracts and sell them to the Gold Medal Laundries.

Q. Title was to be held by you, was it not?

A. Either by myself or an agent of myself.

Q. And that agent or you were to enter into a contract with the Gold Medal?

A. That is right.

Q. For a resale of the interest you had purchased?

A. Yes.

Q. And the purchase price was the amount of 356 money you had loaned?

A. The amount of money we were to put up was the price we were to sell it back at, plus six per cent interest.

Q. And they were to repay it out of the net earnings, as provided for in the contract?

A. Out of the earnings, with a certain amount to be applied against principal.

Q. And you were to receive ten per cent interest, is that right?

A. No.

Q. I ask you to examine the contract and refresh your recollection.

A. It was set at six per cent, and it was stated in here not to exceed six per cent.

Q. Is that set at six per cent?

A. Oh, it said not to exceed ten. Not to exceed ten per cent.

Q. And it was later fixed at six per cent, did you say?

A. I am quite sure it was. I am not positive.

Q. Was there any subsequent document showing a modification of this commitment?

A. Oh, yes. The Gold Medal gave us a contract on the equipment, which was never consummated, and I think there was an agreement entered into between the Gold Medal and either myself or a man I designated, as to 357 the amount and the repayment. You possibly have a copy of that.



Q. The contract you now refer to is the contract of March 6, 1940, isn't that right?

A. I think that is it.

Q. From the time this commitment was prepared and signed by you, November 21, 1939 to March 6, 1940, I take it you had further discussions on the question of the subject matter of this commitment and this contract?

A. I don't think so, after that, because I went to Florida, and I was away.

The Court: Pardon me.

Mr. Topper: Will you read the last question and answer, please?

(Whereupon the question and answer were here read by the reporter.)

Q. How long were you in Florida?

A. I was there from the beginning of January, with the exception of a few trips to Chicago, until about the middle of April, which is the time I usually am there.

Q. Did you have any discussion in December of 1939 with respect to the subject matter of this contract?

A. That is a little far back for me to remember.

Q. Do you recall whether you had any or not after 358 the execution of this first commitment? Did you take it up again?

A. I took it up with Mr. Kaplan and Mr. Rosenfield.

Q. That is, Arthur Kaplan and Ben Rosenfield?

A. Yes.

Q. Ben Rosenfield is your attorney at the present time, representing you in this proceeding?

A. Yes.

Q. Did you instruct him as to the manner in which this contract should be prepared?

A. I evidently did.

Q. Well, did you or didn't you?

A. It is awfully hard for me to answer yes or no, because I leave a whole lot of those matters to them.

Q. Do you recall whether or not you instructed them specifically as to what the contract should provide? Withdraw the question. Will you examine Trustee's Exhibit Number 9, particularly the last page, and tell me whether or not your signature appears at the base of the last page?

A. Yes. That is my signature on it.



Q. Will you kindly examine it, for the purpose of refreshing your recollection?

A. Yes. I remember signing it.

Q. Do you know who prepared that contract? Did 359 Arthur Kaplan prepare it?

A. I think it was prepared by a lawyer named Goldberg.

Q. Is that Arthur Goldberg?

A. I think so.

Q. Did Mr. Arthur Goldberg assist Mr. Kaplan in the preparation of that contract, do you know?

A. That I couldn't tell you.

Q. Does an examination of that contract now refresh your recollection as to the instructions you had given Mr. Kaplan?

A. Yes. Can I have this, so that I can refresh my memory on these things?

Q. Surely. Tell me specifically what you instructed Mr. Kaplan to do with respect to the creation of a new corporation.

A. They submitted to me a legal method of handling the transaction, which I thought was all right.

Q. And did they indicate at that time that a new corporation was to be created?

A. That is right.

Q. And did they indicate the amount of moneys that you were to advance to the new corporation?

A. They did not indicate the amount, but I had a pretty good idea at that time how much would be necessary.

Q. How much was going to be necessary to do this?

A. Outside of the money they already owed me, 360 around fifty thousand dollars.

Q. And did they indicate at that time how the money was to be paid, and to whom?

A. It was the agreement that certain mortgages and conditional sales contracts were to be bought up.

Q. How did they plan to do that, and what instructions did you give Mr. Kaplan with respect to it?

A. Pardon me?

Q. Strike that question, and I will ask you whether or not your discussions did not relate to this plan of payment: That you were to turn approximately fifty thousand dollars into the new corporation, and the new cor-

poration was to purchase these outstanding bonds or liquidated liabilities?

A. That was not the method. The method was this: I was to buy up certain mortgages designated here, such as the Huebsch mortgage and the Prosperity mortgage on the presses and the real estate, which covered the real estate, boiler and water softener, and other paper against equipment, which was held by—

Q. (Interrupting.) The First United Finance Corporation?

A. They have so many names, I want to get the right one. The First United Finance Corporation.

Q. There are not so many that we can't keep them straight.

A. I say they have so many. The First United 361 Finance Corporation.

Q. Were you to buy them personally or was your nominee to purchase them?

A. The money was to be advanced by me to the Laundry Building Corporation.

Q. That was a new corporation to be created?

A. Yes, sir.

Q. Was there any discussion as to when this new corporation was to be created or organized?

A. I don't remember, but I think it was as soon as possible.

Q. Who was to organize the corporation?

A. I believe the attorneys that were designated here by their fees were the ones that were to organize the corporation.

Q. Pursuant to whose direction?

A. Pursuant to the conditions here in the agreement.

Q. Isn't it a fact that the discussions related to you as to undertaking the organization of this corporation?

A. You mean me, personally?

Q. You or your nominee or attorney.

A. Yes, sir.

Mr. Rosenfield: Pardon me.

Mr. Topper: That is in the record already, but it is just for the purpose of refreshing your recollection.

362 Mr. Rosenfield: Are your questions with reference to what is in the contract?

Mr. Topper: No.

Mr. Rosenfield: Because I see the questions and answers seem to be based on it.

Mr. Topper: I want to show what changes have been made, and I want to show this man's continued interest.

The Court: Off the record.

The Court: If it is a matter of what negotiations took place prior to the execution of the contract, I don't think it is important, because the contract is the culmination of all of this, and it is in evidence. You are not seeking to vary the contract, are you?

Mr. Topper: No. I am only seeking to explain it.

The Witness: It is stated in the contract that a corporation be organized. Every question you have asked me is in this contract.

Mr. Rosenfield: It was because of that that I made this inquiry.

The Court: I will sustain the objection.

Mr. Rosenfield: I think the form is one in which the parties are not talking about the same thing.

Mr. Topper: We are talking about the same thing.

363 Q. Now, tell me, Mr. Koplin, whether or not you caused the interest of Morris Ginsburg to be purchased on or before March 20, 1940?

A. You want to know whether I gave a check for Ginsburg's interest before—

Q. (Interrupting.) No. I asked you whether or not you caused the purchase of the interest of Morris Ginsburg on or before March 20, 1940.

A. What was the date of that contract?

Q. March 6, 1940.

A. It was done after that contract. It was specified in the contract that we had to pick it up.

Q. You mean it was specified in this contract that you had to pick it up long before March 20?

A. I can't remember that.

Mr. Rosenfield: The contract speaks for itself. We are reverting again to the from of inquiry we had difficulty with a minute ago.

Mr. Topper: It is only for the purpose of refreshing his recollection, that is all.

The Witness: I don't remember the date it was taken up.

Mr. Topper: Q. Do you know whether or not the new

corporation purchased the interest of the First United Finance Corporation in the realty at 2621 West Chicago Avenue?

364 A. That has not been consummated yet, due to difficulties with a government lien on unemployment tax, or something of that sort.

Q. I show you a document admitted as Trustee's Exhibit 3, under date of 1/20/42.

A. The agreement was entered into, but it has not been consummated up to today.

The Court: There is no question.

The Witness: Oh, I misunderstood him.

The Court: There is no question yet.

The Witness: Well, I am answering his other question.

The Court: He merely says: "I show you a document," and a question has not been asked yet.

Mr. Topper: Q. The question is whether or not that is the agreement referred to in the contract of March 6, 1940.

A. Yes.

Q. Has there been a transfer of the interest acquired by Mr. Arthur Kaplan under that contract to the Chicago Laundry Building Corporation?

A. It has never been transferred to Mr. Kaplan yet.

Q. You mean it has not been transferred by the First United Finance Corporation?

A. No.

Q. I am talking about the interest Mr. Kaplan acquired under this contract with the First United, and I am asking you whether or not his interest under that contract has been assigned to any corporation?

A. I think it has.

Q. To what corporation?

A. To the Laundry Building Corporation.

Q. Do you know, as a fact, whether or not it has been?

A. No, I don't.

Q. Will you examine this document admitted as Trustee's Exhibit Number 11?

A. Yes. I looked it over.

Q. Have you ever seen the original of that document or a copy of that document?

A. No.

Q. Prior to June 12, 1940, the date of that contract, had you entered into any negotiations with respect to the

purchase of that one-third stock in the Gold Medal Laundries?

A. I never had any stock in the Gold Medal Laundries.

Q. Did you have any negotiations with anybody with respect to one-third of the total issue of the capital stock of the Gold Medal Laundries?

A. No.

Q. You didn't have any meeting with Robert Millman at 2034 West Fulton Avenue in Chicago, at the office of your business, with respect to the purchase of this one-third of the capital stock, did you?

A. I wouldn't say yes. I don't think so. He may have been there a couple of times.

Q. Had you at any time any discussion with Robert Millman with respect to this stock?

A. With respect to buying it?

Q. Yes.

A. Buying whose stock?

Q. One-third of the total capital stock issued by the Gold Medal Laundries.

A. Who from?

Q. From Samuel H. Millman.

A. That is the young Millman?

Q. That is the brother of Robert Millman.

A. I think Mr. Feller, who was a former employee of ours, came to us with a proposition of buying Samuel Millman's stock, because he felt he was a detriment to the business, and he asked me about it, and I told him to go ahead and buy it.

Q. Your interest in the purchase of this one-third of the stock was simply as an advisor to Joseph Feller, is that right?

A. That is right.

367 Q. You didn't advance any funds?

A. No, not a dime. I had advanced money to Joe Feller quite a few times.

Q. Under this contract?

A. No. Under various things.

Q. Did you advance him various funds under this contract?

A. I couldn't tell you.

Q. Did the Budget Laundry advance him any funds under this contract?

A. I couldn't tell you.



Q. Did the Chicago Laundry Building Corporation advance any funds under this contract?

A. I couldn't tell you.

Q. Wasn't the initial payment of one thousand dollars under this contract made at your office?

A. I may have given Feller a check for one thousand dollars that day.

Q. Did you or didn't you, if you can recall?

A. I don't remember. I couldn't remember.

Q. Who was present at the time?

A. I can't remember.

Q. Robert Millman was there, was he not?

A. I don't think so.

Q. Joe Feller was there?

A. I think Joe Feller came in for a check for one 368 thousand dollars, which I gave him out of my personal funds.

Q. And was the check endorsed in your presence and turned over to any one in your presence?

A. I don't remember.

Q. What was the arrangement that you and Joe Feller had with respect to the repayment of these moneys? Strike that question. I will ask you: What was the arrangement that you had with Joe Feller?

A. Joe Feller had been a salesman of ours for years, and he wanted to get into the laundry business. He was to repay it at the rate of twenty-five dollars a week. I am quite sure that was it.

Q. Was there any document evidencing this transaction?

A. No more than we charged up against his account.

Q. Was there any document signed by both parties, by you and Joe Feller, evidencing this transaction?

A. No. I never did business with Joe Feller on that basis.

Q. Did Joe Feller sign any note and give it to you?

A. No.

Q. How much had you advanced under this contract to Joe Feller?

A. I think that was the only advance I advanced to Joe Feller. Since then I have advanced him money on 369 another transaction.

Q. Has the Budget Laundry, under your direction, advanced funds to Joe Feller?

A. I have no control over their checks.



Q. You at no time instructed anybody connected with the Budget Laundry to issue any check in payment of this contract?

A. Recently, when Mr. Robert Millman was in dire need of money and the laundry was not able to pay off the twenty-five dollars a week, I called up the bookkeeper there I think before New Year to give him fifty or seventy-five dollars, to issue some checks for that. That was the latter part of 1941.

Q. That was not a gift, was it?

A. It sure was.

Q. Under this contract wasn't he required to pay it?

A. The whole thing was a gift.

Q. Have you made any attempt to collect the funds you have advanced to Mr. Joe Feller?

A. No. He is not in a position to pay it now.

Q. Just answer my question. I have asked you whether or not you have made any attempt to collect the moneys you advanced him.

A. No, we haven't made any attempt to.

370 Q. Was Joe Feller a salaried employee of the Unique Laundry?

A. Yes, I think so.

Q. And he remained a salaried employee of the corporation under the new name of Budget, is that right?

A. I don't know whether he was there when the Budget was there or not. He may have been.

Q. He was a salaried employee of the Chicago Laundry Company?

A. Yes, sir.

Q. And all moneys that have been put into the Chicago Laundry Company, Unique and Budget have been advanced by you, is that right?

A. Yes, sir.

Q. Was any statement made by you to Joe Feller that all of the capital stock was in the possession of your brother-in-law, Arthur Kaplan, at the time he purchased it?

A. He was familiar with it.

Q. Did Arthur Kaplan turn over this one-third of the stock to Joe Feller?

A. I think the stock—

Q. (Interrupting.) Did he or didn't he?

A. Could I refresh my recollection by that agreement there? I mean the other agreement about the stock.

Q. This is the stock agreement.

371 A. This is the stock agreement with reference to all the stock.

Q. I don't know which one you are referring to, but I will give you 9 and 11.

A. Paragraph 7 on page 4 says that all of the shares of the proposed corporation shall be endorsed in blank to Koplin, and so forth and so on.

Q. Was Joe Feller a party to this contract?

A. No, but he was familiar with the terms of it.

Q. Mr. Koplin, I direct your attention to October 7, 1941 and ask you whether or not you testified in this proceeding on a receiver's examination, under examination by me?

A. I don't remember. There have been so many.

Q. When was the last time that you appeared here and testified?

A. I don't remember.

Q. How many months ago or how many weeks ago was it?

A. The last time I was here was about three or four or five or six weeks ago.

Q. How many times have you been examined by me in this proceeding?

A. I think this is the second time. I am not sure.

Q. The last time was on or about October 7, 1941, 372 about four or five months ago, isn't that right?

A. No. I was here six weeks ago, right before I went to Florida.

Q. Then how long before that time were you examined by me?

A. I don't remember.

Q. Do you know, approximately?

A. I don't know.

Q. But you were examined by me in the latter part of 1941 in these proceedings?

A. Yes, I think I was.

Q. And you were asked questions and you had given certain answers at that time, hadn't you?

A. To be perfectly frank about it, I don't even remember it.

Q. You don't even remember the time you testified here?

A. The proceedings in October. That has been a long time ago, and a lot of things have happened since then.

Q. But you do recall that you had been here and testified under my examination?

A. I have been here quite a few times.

Q. I said: "Testified under my examination."

A. Yes, I think so.

Q. Within the past six months?

A. I think I did.

373 Q. Let me ask you whether or not this question was asked you by me and this answer given:

Q. Did you make any arrangement or did you authorize your brother-in-law, Arthur Kaplan, to enter into any agreement with Samuel H. or Samuel F. Millman for the purchase of this stock?

A. No, sir, not for the purchase of the stock. I authorized the entering into of an agreement to pay them so much a week to keep out of the laundry business."

A. Correct.

Q. Is that the way the question was asked and the answer was given?

A. That is the proper answer.

Q. And that was the question that was asked?

A. Yes.

Q. Was this question asked and this answer given:

Q. There was no stock agreement between you and the Millmans?

A. No. I didn't know they owned any stock or had any assets. I gave it to them out of the goodness of my heart."

A. Correct.

Q. Is that the question that was asked of you?

A. Yes.

374 Q. And that answer was given?

A. Yes.

Q. Was this question asked of you, and did you give this answer:

Q. How much did you give them out of the goodness of your heart?

A. Five thousand to one and three thousand to the other. One was old and feeble and had a son who couldn't keep him going, and I gave him so much a week, and I

gave the other one so much a week to stay out of the laundry business."

A. Yes.

Q. Was that question asked?

A. Yes.

Q. And was that the answer that was given?

The Court: What is the purpose of asking these questions? Off the record.

Mr. Topper: I just want to identify this contract. It has been admitted in evidence, already, as Trustee's Exhibit Number 5 under date of 1/20/42.

Q. Are you familiar with that, Mr. Koplin?

A. Yes. I am familiar with this agreement.

Mr. Topper: That is all, Mr. Koplin.

Mr. Rosenfield: Which one is that?

375 Mr. Topper: Trustee's Exhibit Number 5, under date of 1/20/42.

The Court: Do you want to adjourn to two or two-thirty this afternoon?

Mr. Topper: Two-thirty.

The Court: Off the record.

Mr. Topper: I am through with Mr. Koplin.

The Court: You don't want to ask him any questions, do you?

Mr. Rosenfield: No. Not at this time.

The Court: All right.

(Witness excused.)

Whereupon an adjournment was here taken to the hour of two-thirty o'clock P. M., same day, March 17, 1942.

376

BEFORE REFEREE IN BANKRUPTCY,  
ARCHIE H. COHEN.March 17, 1942. Two-thirty o'clock P. M.  
• • (Caption—76517) • •

## ADJOURNED HEARING ON TURNOVER PETITION.

Court re-convened in the above entitled cause, at the hour of two-thirty o'clock P. M., March 17, 1942, pursuant to adjournment heretofore taken herein.

Present:

Same counsel as before, to-wit:

Mr. Russell J. Topper, appearing on behalf of the petitioning creditors and the trustee.

Mr. Ben Rosenfield, appearing on behalf of the respondents.

Mr. Eli Herman, appearing on behalf of a creditor.

377 The Court: You have not been able to reach your witness?

Mr. Topper: No, I have not, Judge.

The Court: Is he on his way over here?

Mr. Topper: I don't think so. This is the first time he has ever disappointed me, and I can't say he will be here.

The Court: If it is important, I am perfectly willing that you finish up with him at the next date. Mr. Rosenfield says he is not ready to go ahead today.

Mr. Topper: As long as his testimony is cumulative and corroborative, perhaps I can dispense with it.

The Court: You may want him for rebuttal.

Mr. Topper: Yes.

The Court: Do you close your proofs?

Mr. Topper: Yes.

The Court: Counsel here says he has a written motion, and wants to present it at the next hearing. Let me give you a date. Are you writing all of this up?

Mr. Topper: I am, Judge. I have a running abstract, and I want to submit a written brief.

The Court: I will put it over to March 31, at two o'clock. That is the first day I can give you any time.



Mr. Topper: How much time will you need, Mr. Rosenfield?

Mr. Rosenfield: Well, I can't exactly tell you that.

378. The Court: I can give you some time next week.

Mr. Topper: I would appreciate that.

Mr. Rosenfield: I would much rather have the additional time. I will need it.

The Court: The earliest date I can give you is March 27, at two-fifteen.

Mr. Topper: March 27?

The Court: Yes.

Mr. Topper: That is fine.

The Court: Off the record.

Whereupon an adjournment was here taken to the hour of two-fifteen o'clock P. M., March 27, 1942.

379

BEFORE REFEREE IN BANKRUPTCY,  
ARCHIE H. COHEN.

April 9, 1942, Ten o'clock A. M.

(Caption—76517)

Court re-convened in the above entitled cause, at the hour of ten o'clock A. M., April 9, 1942, pursuant to adjournment heretofore taken herein.

Present:

Same counsel as before, to-wit:

Mr. Russell J. Topper, appearing on behalf of Harry W. Cline, trustee.

Messrs. Kaplan & Rosenfield (By Mr. Ben Rosenfield and Mr. Arthur S. Kaplan), appearing on behalf of the respondents.

Mr. Eli Herman, appearing on behalf of a creditor.

380. The Court: Gold Medal Laundries.

Mr. Rosenfield: Mr. Ginsburg, will you take the stand, please?



MAURICE A. GINSBURG, was called as a witness by the respondents, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Rosenfield.*

Q. Will you state your name, please?

A. Maurice A. Ginsburg.

Q. What is your address?

A. 2200 North Western Avenue.

Q. What is your business or occupation?

A. Distributors of phonographs, coin-operated phonographs, musical instruments.

Q. You are the same Maurice A. Ginsburg who, with a Max A. Heiman, purchased the right, title and interest of the receiver in the bankruptcy sale of the Strand Family Laundry, is that correct?

A. Yes, sir.

Q. Do you know Robert J. Millman?

A. Yes, sir.

Q. What is your relationship to Millman?

A. Mr. Millman is a very close personal friend, and 381 my attorney.

Q. Who is Max A. Heiman?

A. I don't know.

Mr. Rosenfield: For the record, I am calling this witness as an adverse witness.

Q. You were subpoenaed to appear here this morning, were you?

Mr. Topper: Just a moment. He is not a party to this proceeding, is he? The petitioner here is the trustee. Counsel says he is calling the witness as an adverse witness, for cross-examination, and only a party to the proceeding may be called as an adverse witness. As I understand it, he is your client.

Mr. Rosenfield: He is not my client.

Mr. Topper: He is your witness.

The Court: I don't see he is adverse.

Mr. Topper: He has not demonstrated any hostility, and he is not a party to this proceeding.

The Court: I don't see yet that he is hostile. If he is, you can make him the Court's witness.

Mr. Rosenfield: All right. I didn't hear the answer to the question.

The Court: He said he doesn't know.

Mr. Rosenfield: Q. Were you present at the sale of the assets of the Strand Family Laundry?

382 A. No, sir.

Q. How much money did you pay for the assets of the Strand Family Laundry?

A. I gave Robert J. Millman thirty-five hundred dollars.

Q. What did you receive for the thirty-five hundred dollars?

A. Nothing at all, excepting the bill of sale.

Q. I will hand you Trustee's Exhibit 13, which is in evidence and which purports to be an exact copy of the bill of sale covering the assets of the Strand Family Laundry, and ask you to examine that, please. Is that a copy of the bill of sale that you referred to, that was delivered to you?

A. I honestly don't know. I don't remember it. It was two and one-half or three years ago.

Q. Do you have the original of the bill of sale in your possession?

A. That I don't know either, offhand.

Q. You say it was delivered to you by Robert Mil'man?

A. Yes, sir.

Q. What is your best recollection as to about the time it was delivered to you?

A. You mean as far as the date is concerned?

Q. Yes.

A. I have no idea as to the date. I know it was perhaps two or three weeks after I gave Mr. Millman the  
383 money.

Mr. Rosenfield: Mark this, for identification, as Respondents' Exhibit 1.

(Which said document was marked, for identification, as requested.)

Mr. Rosenfield: I want to offer in evidence Respondents' Exhibit 1, for identification, being a certified copy of the inventory of the Strand Family Laundry, that was prepared by the receiver.

Mr. Topper: No objection.

The Court: It may be received and marked as requested

(Which said document was received in evidence, and marked as requested.)

Mr. Rosenfield: Q. Did you advance any moneys to

Robert J. Millman other than the thirty-five hundred dollars that you referred to, for the purchase of these assets?

A., No, sir.

Q. Did you have any dealings with any officers or agents of the Gold Medal Laundry Company at any time from the time you purchased the assets of the Strand Family Laundry?

A. May I have that question again?

Mr. Rosenfield: Read the question, please.

(Whereupon the question was here read by the reporter.)

384 The Witness: No, sir.

Mr. Rosenfield: Q. Do you know Mr. Arnopolin, the gentleman seated here (indicating)?

A. I met Mr. Arnopolin once for about one minute a year and a half or two years ago. He came into my office to sell my brother a policy. That is all I know. That is the last time I saw him.

Q. Did you ever have any conversation with Mr. Arnopolin with reference to the Gold Medal Laundries?

A. Definitely not.

Q. This is the second time in your life that you have seen him?

A. The second or the third, at the most. I would say the second.

Q. On no occasion did you discuss with him any matters referring to the Gold Medal Laundries?

A. Definitely not.

Q. What did you do with the assets which you purchased at the Strand Family Laundry sale?

A. They were sold, I believe, to Mr. Koplin.

Q. Did you sell them to Mr. Koplin?

A. I never saw Mr. Koplin.

Q. I say, did you sell the assets to Mr. Koplin?

A. Well, through the attorney, Mr. Millman.

385 Q. You executed a bill of sale to Mr. Koplin, is that right?

A. I don't recall offhand.

Q. Did you ever, before the time you sold the assets to Mr. Koplin, sell them to anybody else?

A. No, sir.

Q. I hand you Trustee's Exhibit 14, which consists of two documents, one purporting to be a bill of sale from you to Harry Koplin and the Chicago Laundry Building

Company of the assets purchased by you of the Strand Family Laundry, signed 'Maurice A. Ginsburg, by Edward A. Ginsburg,' and the other part of the said exhibit being a document purporting to be a power of attorney, signed by you, to Edward A. Ginsburg, to execute the prior document, and ask you if you saw those before?

A. I never saw this one; but I apparently have seen this (indicating.)

Q. When you say "this one," you are referring to the bill of sale signed by Maurice A. Ginsburg, by Edward A. Ginsburg?

A. Yes, sir.

Q. Referring to the one identified as the power of attorney, is that your signature?

A. Yes, sir.

Q. You did sign that on the date it bears?

A. Yes, sir.

386 Q. It is in the same condition it was in at the time you signed it?

A. Yes, sir.

Q. Do you want to see the other part of it?

A. Just the date, that is all.

Q. Are you familiar with Edward A. Ginsburg's handwriting?

A. Yes, sir.

Q. Will you look at that part of Trustee's Exhibit 14 which purports to bear your signature, by Edward A. Ginsburg?

A. That is my brother's handwriting.

Q. That is your brother's handwriting?

A. Yes.

Q. Did you ever enter into any agreement for the sale of these assets to anybody else than Harry Koplin?

A. No, sir.

Q. Did you ever agree to sell these assets to the Gold Medal Laundry Company?

A. No, sir.

Q. The Gold Medal Laundry Company, however, was using or making use of some of the assets described in the bill of sale to you from the receiver?

A. Yes, sir.

Q. Under what arrangement was that, Mr. Ginsburg?

A. They were paying me sixty dollars a week.

Q. What was that for?

387 A. They considered that as a rental, but when all the the moneys were paid they were supposed to have gotten the right, title and interest and a bill of sale for it.

The Court: Will you read that answer?

(Whereupon the answer was here read by the reporter.)

The Court: What do you mean? You mean credit for those payments?

The Witness: Yes. In other words, I was supposed to have gotten a certain amount of money, and then I got that money they were supposed to have gotten a bill of sale for it.

Mr. Rosenfield: Q. How much money were you supposed to have received under that arrangement?

A. Sixty-one hundred dollars.

Q. In other words, you were to be repaid sixty-one hundred dollars for the thirty-five hundred dollars advanced?

A. That is right.

Q. With whom did you make this agreement to lease or rent the equipment for sixty dollars a week until sixty-one hundred dollars were paid?

A. I only took it up with my attorney, Mr. Millman. That is all I dealt with. I didn't see any one else in the case.

Q. Do you know Samuel F. Millman?

A. There are two Samuel Millmans. I don't know which one you are referring to.

388 Q. The older man.

A. No. I met him, I believe, once for one minute, to say "hello" at a card party, and I never have seen him since.

Q. You never had any dealings with him concerning the laundry?

A. No, sir.

Q. Do you know the younger Millman, the accountant?

A. Yes.

Q. Did you ever have any dealings with him concerning the laundry?

A. No, I did not, but he is my auditor for my company.

Q. He is the auditor of the business you conduct at 2200 North Western Avenue?

A. That is right.

Q. This agreement you made for the rental of the equipment was with Robert Millman, is that right?

A. Yes, sir.



Q. Was there anything in writing covering the agreement between you and Robert Millman?

A. I don't remember.

Q. Whose idea was it to receive sixty-one hundred dollars for the thirty-five hundred dollar investment?

A. My idea.

Q. Did you consult with Robert Millman at the time you entered into the contract with Harry Koplin?

389 A. Mr. Millman was the one that came to me with the idea. I never met Mr. Koplin.

Q. Do you know Mr. Arthur S. Kaplan, this gentleman seated here

A. I don't believe I have ever met him before, no, sir.

Q. I will hand you Trustee's Exhibit 7, which purports to be a letter written and signed by you, written to Arthur S. Kaplan, a commitment for the sale of these assets, and ask you if you ever saw that before?

A. I don't remember seeing this letter. I may have seen it.

Q. Just one moment. I have the original. Will you identify this as Respondents' Exhibit 2, for identification? (Which said document, was marked, for identification, as requested.)

Q. I will hand you Respondents' Exhibit 2, for identification, which is the original of the copy that was handed to you as Trustee's Exhibit Number 7, and ask you whether that is your signature

A. It is.

Q. Did you sign that on the date that bears?

A. I presume so.

Q. And is that in the same condition now as it was when you signed it?

390 Mr. Topper: Oh, we will agree to its genuineness, and that it is in the same condition. That is in evidence.

Mr. Rosenfield: Q. Did you prepare that letter?

A. No. I believe it was prepared by my attorney.

Q. By Robert Millman?

A. Yes.

Q. And you signed it at his suggestion?

A. Yes, sir.

Q. Did you have any other understanding with the Gold Medal Laundries or Robert J. Millman concerning that



rental at the time you entered into this agreement with Harry Koplin, Respondents' Exhibit 2?

A. I don't understand that, sir.

Q. I will withdraw that question and try to phrase it a little more clearly.

Mr. Rosenfield: Before I do, I would like to offer this in evidence.

Mr. Topper: I have no objection to that. This is a signed copy of Trustee's Exhibit 7.

The Court: It may be received in evidence.

(Which said document was received in evidence, and marked as requested)..

Mr. Rosenfield: Q. At the time you signed this letter dated January 23, and marked Respondents' Exhibit 2, 391 did you make any other or different arrangement concerning the rental of the assets to the Gold Medal Laundries?

A. No, sir.

Q. As a matter of fact, you had nothing to do with the Gold Medal Laundries at all?

Mr. Topper: Just a minute. Let him answer.

The Court: He said: "No".

Mr. Topper: I didn't hear him. I am sorry.

Mr. Rosenfield: Q. I say, as a matter of fact, you had nothing to do with the Gold Medal Laundries whatsoever? All your dealings were with Robert J. Millman?

A. He handled all the affairs for me.

Q. Did Max Heiman advance any money for the purchase of the receiver's assets?

A. I don't know.

Q. Do you know how much was paid on your behalf for the assets at the receiver's sale?

A. No, sir. I understood it was thirty-five hundred dollars.

Q. Is that still your understanding today?

A. What is that?

Q. Do you still understand so today?

A. Why, no. I don't recall the exact amount, but whatever the amount given was, I understand that was the amount to be paid for the assets.

Q. Have you been fully paid for the money advanced by you, Mr. Ginsburg?

Mr. Topper: I submit that is immaterial.

The Court: He may answer.

The Witness: Are you referring to the total sixty-one hundred dollars, or are you referring to—

The Court: (Interrupting.) The question was: Have you been fully paid for the money that you advanced?

The Witness: I received all the money I was entitled to in the deal, yes.

Mr. Rosenfield: Q. How much is that?

A. I believe it is approximately fifty-four or fifty-five hundred dollars.

Q. You were a creditor of the Strand Family Laundry, weren't you?

A. Yes, sir.

Q. For how much?

A. Approximately nineteen hundred dollars, I believe.

Q. Was there ever any discussion between you and Robert Millman about increasing the amount of your advance to cover that nineteen hundred dollars?

A. Will you say that again?

Q. I will withdraw that question and ask you this one: You fixed the price of sixty-one hundred dollars, you say, for the sale of these assets to the Gold Medal?

A. Yes.

Q. Did that include the nineteen hundred dollars that the old corporation owed you?

A. It did not include that, but in my own mind I figured when I got the sixty-one hundred dollars, I would have made up that nineteen-hundred dollar loss.

Q. That is, you would have received back the thirty-five hundred dollars you advanced and nineteen hundred dollars the previous corporation owed you and a profit on this deal, is that correct?

A. That is right.

Q. Other than the sixty dollars a week which the Gold Medal agreed to pay you for rental or, rather, which Robert Millman agreed to pay you as rental, did the Gold Medal owe you anything?

Mr. Topper: I ask that that characterization be stricken, if the Court please.

The Court: Off the record.

The Court: What was the question?

(Whereupon the question was here read by the reporter).

Mr. Topper: There wasn't any testimony that  
394 Robert Millman agreed to pay that.

The Court: I will sustain the objection to the form of the question.

Mr. Rosenfield: Q. I will ask you this question: Did the Gold Medal ever agree to pay you any amount of money?

A. Through my attorney, Robert Millman, they agreed to pay me sixty dollars a week.

Q. That is, Robert Millman told you so?

A. Yes, sir.

Q. Did he ever exhibit a resolution of the board of directors of Gold Medal covering that?

A. No. I left all those things in Mr. Millman's hands.

Q. In other words, your attorney, Robert Millman, told you the Gold Medal would pay you sixty dollars a week for the use of that equipment, is that correct, and that is what you mean when you say the Gold Medal agreed to pay you sixty dollars a week?

A. I never had any dealings with the Gold Medal. Millman had all the dealings with them, and that is what they agreed upon, I presume.

Q. You don't know what Robert Millman and the Gold Medal Laundries agreed upon, do you?

A. They may have agreed to pay me two hundred dollars a week. I don't know.

395 Q. But you do know what he said they agreed upon?

A. Yes.

Q. Whom did you look to for the payment of that sixty dollars a week?

A. The Gold Medal Laundries.

Q. Did you receive sixty dollars each and every week?

A. Yes, sir.

Q. And was each payment received from the Gold Medal Laundries?

A. No, sir. I won't say it was.

Q. How many payments did you receive from the Gold Medal Laundries during the time you received them?

A. I don't recall.

Q. Was it on more than one occasion?

A. Yes.

Q. How many more than one would you say?

A. I have no idea. It was two years ago, and I can't remember that.

Q. Were there more than five or six occasions on which you received payments other than from Gold Medal?

A. I don't remember.

Q. Those occasions on which you received payments other than from Gold Medal, whom did you receive them from?

A. Sam Millman.

396 Q. Were those personal payments made by Sam Millman to you?

A. Yes, sir.

The Court: You mean Sam, the auditor?

The Witness: Sam, the auditor, yes.

Mr. Rosenfield: Q. Were those payments made by cash or check?

A. I believe A. I believe they were made in the form of a check.

Q. That was Sam's own check, is that right?

A. Yes. As far as I can recall, I believe that is true.

Q. Did Robert Millman ever pay you other than by a Gold Medal check?

A. I honestly don't remember. He may have paid me, instead of Sam, but I don't remember that.

Q. Was there more than one occasion on which you received payments from Sam Millman or Robert Millman personally, rather than from the Gold Medal Laundries?

A. Yes. I said that before, but I didn't know the exact number.

Q. Did you ever have any discussion with Arthur S. Kaplan concerning the sale of the assets purchased by you to Arthur S. Kaplan?

A. I don't believe I have ever spoken to Mr. Kaplan in my life.

Q. Did you ever have any discussion with Mr. 397 Harry Koplin concerning the transfer of those assets to him?

A. No, sir. I am almost sure I didn't.

Mr. Rosenfield: That is all with this witness.

*Cross-Examination by Mr. Topper.*

Q. Mr. Ginsburg, Mr. Robert Millman represented you in all transactions with the Gold Medal, did he not?

A. Yes, sir.

Q. And shortly before the receiver's sale of the Strand

Family Laundry, you had authorized Mr. Millman to represent you in connection with that purchase, is that true, at the receiver's sale?

A. Yes. He represented me there.

Q. And after the organization of the Gold Medal corporation, Mr. Millman continued in that representation, isn't that true?

A. I can't hear you.

Q. After the organization of the Gold Medal, Mr. Millman continued as your attorney?

A. Yes, sir.

Q. And in any dealings with the Gold Medal corporation, Mr. Millman continued your representation, isn't that right?

A. That is right.

Q. Did you know at the time the Gold Medal corporation was organized that Mr. Millman was connected with the organization?

A. When the Gold Medal was organized, did I know Mr. Millman was connected with the organization? Is that your question?

Q. That is right.

A. I didn't know if he was actually connected with it, but I knew it was in the family.

Q. Any discussion with respect to the terms of that transaction involving the right, title and interest of the receiver was left to Mr. Robert Millman, was it not?

A. Yes, sir.

Q. You did not participate in any negotiations with the Gold Medal, did you?

A. No, sir.

Q. And after the organization of the Gold Medal, most of the payments that were made were made by the Gold Medal direct to you?

A. Yes, sir.

Q. By checks drawn payable to you?

A. Yes, sir.

Q. That is, the sixty dollar weekly payments?

A. Yes, sir.

Q. You had understood at the time of the arrangement that the arrangement was made with Gold Medal, isn't that correct?

A. Yes, sir.

Q. And that Mr. Robert Millman represented the Gold

Medal Laundry at that time? He represented them also at that time?

A. I believe he did.

Q. And his first fidelity, his first faith, was to you, as had been expressed both to the corporation and to you?

A. That is right.

Mr. Topper: May I see Respondents' Exhibit 2?

Mr. Rosenfield: There it is (indicating).

Mr. Topper: Q. At the time of the sale on June 12, 1940, to Mr. Koplin, the amount of the purchase price was determined, was it not, at that time at sixty-one hundred dollars, less the amount that had been paid by the Gold Medal?

A. That is right.

Q. And that had been expressed in that letter that had been addressed to Mr. Arthur Kaplan, signed by you?

A. That is right.

Q. As of June 12, 1940, had there been any default in the weekly payments of sixty dollars by the Gold Medal Laundries?

A. No, sir.

Mr. Topper: That is all.

The Court: Do you keep personal records of transactions of this character?

The Witness: Well, we do now, but at that time I 400 may have kept just a personal memorandum of this.

The Court: Don't you report your profit in your income tax returns?

The Witness: Definitely, sir.

The Court: All right.

Mr. Topper: That is all.

The Witness: Is that all?

The Court: That is all.

(Witness excused.)

Mr. Rosenfield: Mr. Arnopolin, will you take the stand, please?



SOLOMON I. ARNOPOLIN was called as a witness by the respondents herein, and being first duly sworn, testified as follows:

*Direct Examination by Mr. Rosenfield.*

Q. Will you state your name, please?

A. Solomon I. Arnopolin.

Q. What is your address, please, Mr. Arnopolin?

A. My home address?

Q. Yes, and your business address.

A. My home address is 3056 Palmer Square. My office is 39 South La Salle Street, and we have also an office at 175 West Jackson, where I was given the subpoena yesterday.

Mr. Rosenfield: I am calling this witness as an adverse witness. He is one of the petitioning creditors.

The Court: All right.

Mr. Topper: The petition is the trustee's petition, and not the petition of the creditors, but I have no objection. Let him cross-examine. It makes no difference to me.

The Court: All right.

Mr. Rosenfield: Q. What is the name of the business that you operate at 175 West Jackson?

A. It is a corporation.

Q. What is the name of it?

A. Adams-Arnopolin, Inc.

Q. And the Adams is the Sam Adams, who is also a petitioning creditor in this case, is that right?

A. He happens to be, but that business was not organized in connection with this litigation.

The Court: That is not a laundry business, is it?

The Witness: No. It is an insurance business.

Mr. Rosenfield: Q. Mr. Arnopolin, you were the president of the Gold Medal Laundries during its entire existence, is that correct?

A. Yes, sir.

Q. You were also one of the incorporators of the corporation, were you not?

A. Yes, sir.

Q. You were also the holder of all but two of the issued shares of the corporation?

A. I was.

Q. How much did you pay for the shares of stock that were issued to you?

A. How much did I pay?

Q. Yes?

A. I don't recollect at the present time.

Q. Did you pay anything for them?

A. You mean in dollars and cents?

Q. Yes.

A. No.

Q. There were issued to you one hundred and forty-eight shares of a par value of twenty dollars each, is that correct?

A. I don't recollect.

Q. Well, there was a total issue of one hundred and fifty shares, and you remember that Ruth Kordine had one share and that Sam Kostman had one share, and you had the balance?

A. Yes.

Q. The balance was one hundred and forty-eight shares?

A. It must have been.

Q. A total of twenty-nine hundred and sixty dollars of shares were issued to you. Now, were you a creditor of the Strand Family Laundry that went into bankruptcy in 1939?

A. I was.

403 Q. How much did the Strand Family Laundry owe you?

A. The Strand Family?

Q. Yes?

A. In the neighborhood of about twenty-eight or twenty-nine hundred dollars, something like that. I don't remember exactly.

Q. It was actually \$3,162.20, wasn't it?

A. I don't remember. It was about twenty-nine hundred or twenty-eight hundred dollars, or something like that.

Q. Pretty close to the same amount as the issued shares issued in your name of the Gold Medal Laundries, is that right?

A. I don't remember. It was three years ago, and I had very little to do with those shares.

Q. Do you know Miss Eva Spiesman?

A. Eva Spiesman?

Q. Yes, an accountant of the La Salle Audit Company.

A. Oh, yes, I do.

Q. You met her at the office of the Gold Medal Laundry Company, didn't you?

A. At the Gold Medal Laundry?

Q. Yes.

A. Yes. I used to go there quite often to collect some money due me for premiums, and she was in charge of the books.

Q. And she paid you the premiums, did she?

404 A. I wish she would have.

Q. What was your answer?

A. I wish she would have.

Q. Were you there when Eva Spiesman opened the set of books for the Gold Medal Laundries?

A. No, sir.

Q. When did the Gold Medal Laundries go in business?

A. If my memory is right, the early part of September. Either August or September. It was three years ago, and I don't remember.

Q. The early part of September of 1939?

A. August or September. I don't remember exactly.

Q. On September 11, 1939, was the Gold Medal Laundry Company indebted to you in any amount?

A. On September what?

Q. September 11, 1939.

A. Did they owe me any money then?

Q. Yes, that is the question.

A. Yes.

Q. How much money did the Gold Medal Laundries owe you at that time?

A. Around about three thousand dollars.

Q. Three thousand dollars?

A. Around that.

Q. What was that for?

A. For services rendered and premiums advanced and for bank loans for which notes were signed by the Gold Medal and discounted by me at the Merchandise National Bank, and which notes were paid by me months afterwards.

405 Q. Let us take each one at a time. What services did you render by September 11, 1939?

A. The Millmans—

Q. (Interrupting.) Just answer that question, please.

The Court: He is answering it.

The Witness: I am going to answer it, if you will give me a chance. S. F. Millman and S. H. Millman and Robert Millman have seen that I have treated them fairly for the two years I have been their insurance man, and they told me that I would be the most logical man in Chicago to build—

Mr. Rosenfield: (Interrupting.) I object to the answer and ask that it be stricken. The witness' answer is not responsive.

The Court: Oh, let him go. There is no jury here, and I will disregard it if it is not important. He is going to try to tell you what services he rendered.

The Witness: (Continuing.) —that I would be the most logical man around whom—as my name is known in Chicago—to build an organization, and they would like to have my name to be shown as the main incorporator and to become the president of the Gold Medal Laundries, and for that service and for what I will do in helping them to 406 obtain credit, which I did, and to open the telephone in their name, for which I signed papers, which are now in the possession of the Illinois Bell Telephone Company, and to do the same at the Commonwealth Edison, and they referred to me suppliers for information to give them credit—for all that, they agreed to give me in the neighborhood of three thousand dollars for my services.

Mr. Rosenfield: Q. They agreed to give you three thousand dollars for that?

A. Around that neighborhood.

Q. Now, when did you get these bank loans that you talked about a little while ago? Was that before the company went into business, or after?

A. After.

Q. How long after?

A. I don't remember. A month, or two or three months.

Q. How much did they agree to pay you for the bank loans?

A. You mean for my services?

Q. Yes.

A. Everything was included in that understanding, that I will help them in financing, which I did. Every week I used to advance money to pay the payroll for the drivers and for the employees.

Q. You got all that back, did you not?

407 A. Part of it.

Q. How much of it did you not get back?

A. I haven't that record here.

Q. Does the Gold Medal owe you any money other than on the note on which you obtained a judgment?

A. Today?

Q. Yes?

A. I don't think so.

Q. All the money that the Gold Medal owes you is based on a judgment note, upon which you obtained a judgment in the Municipal Court of Chicago?

A. Yes, sir.

Q. Who signed that note?

A. The officers of the company.

Q. Who were the officers who signed that note?

A. I don't remember. If you will let me have the note, I can tell you.

Q. As a matter of fact, you signed the note, as president, didn't you?

A. Very likely.

Q. And R. Kordine signed, as secretary?

A. Quite likely.

Q. It was signed at your request by R. Kordine, was it not?

A. Possibly.

Q. And that note was made payable to you?

408 A. Right.

Q. Was there any resolution passed by the board of directors authorizing you to draw that note payable to you?

A. I don't know, because I had nothing to do with the books. Mr. Robert Millman had the corporation books, and the minute book and stock were kept there. I had nothing to do with it. I believe the note was drawn up by Mr. Robert Millman, and it was signed in the office of the Gold Medal Laundry.

The Court: Off the record.

Mr. Topper: For the purpose of the record, my objection to the entire line of examination is that it does not affect the issue as to whether or not the trustee is entitled to the assets here set forth in the trustee's petition, which it is charged have been seized unlawfully and taken by the three respondents. Even assuming this man's

claim can be discredited—and it has already been allowed—that certainly does not affect the issues before your Honor on the trustee's petition.

Mr. Rosenfield: I don't agree with that.

Mr. Topper: I would rather have your Honor withhold your ruling, and when this entire line of examination is completed, I will make my motion to strike all this evidence.

409 The Court: All right.

Mr. Rosenfield: Q. I hand you Trustee's Exhibit 5, which purports to be a resolution of the Gold Medal Laundries, and ask you to examine that.

A. What is the question, please?

Q. Do you recognize the signature of R. Kordine on that?

A. Yes.

Q. That signature was put on in your presence, wasn't it?

A. I don't remember.

Q. Didn't you request her to sign that?

A. I don't remember. I know it is her signature.

Q. Did you give this to Mr. Topper? Was this instrument in your possession?

A. Yes.

Q. In fact, you gave it to Mr. Topper for use in this case, did you not?

A. I must have given it to him.

Q. Now, where did you obtain the original of this document, Trustee's Exhibit 5?

A. The document you just showed me?

Q. Yes?

A. If my memory is right, this was prepared by Mr. Robert Millman.

Q. Was that delivered to you by Robert Millman?

A. Yes, sir.

410 Q. Was that in accordance to your instructions to him to draw it?

A. Yes, sir.

Q. And the facts contained therein were dictated by you to Mr. Robert Millman?

A. I wouldn't say that. I didn't dictate it. I am sorry, but that is not right.

Q. Did you give him the facts upon which this resolution was drawn?



A. He was always the attorney for the Gold Medal.

Q. Just answer that question. Did you give Robert Millman the facts upon which this Trustee's Exhibit 5 was drawn?

A. No.

Q. Was this drawn without any knowledge or consent on your part, Mr. Arnopolin?

A. Was it drawn?

Q. Yes?

A. Without my consent?

Q. Yes?

A. It was with my consent, but without my knowledge. I saw it after it was presented to me, when it was drawn up at the office.

Q. And this was not drawn up at your request? Is that what I understand you to say?

A. It was not with my knowledge.

Q. Was this resolution drawn at your request?

411 A. This resolution?

Q. Yes?

A. Yes.

Q. Do you know Mr. Maurice Ginsburg?

A. I met Mr. Maurice Ginsburg only once in his office. The second time I believe was—

Q. (Interrupting.) Did you have any discussion with him with reference to the purchase by Gold Medal Laundries of the assets Mr. Ginsburg bought at the receiver's sale of the Strand Family Laundry?

A. Never.

Q. You know, didn't you, Mr. Arnopolin, that Harry Koplin and the Gold Medal Laundries had had a series of negotiations prior to March 6, 1940?

A. Will you kindly repeat that, please?

Mr. Rosenfield: Read the question, please.

(Whereupon the question was here read by the reporters.)

The Witness: I was informed by the Millmans that some negotiations were going on. I had never been present.

Mr. Rosenfield: Q. You didn't know any of the details?

A. Not a thing. I had never been present at any negotiations. I met Mr. Koplin in a casual way, and I knew nothing about the negotiations.

Q. You had certain dealings with Mr. Koplin personally, did you not?

A. No, sir.

The Court: You mean Harry Koplin?

Mr. Rosenfield: Yes.

Q. You, yourself, had no dealings with Harry Koplin of any kind concerning the Gold Medal Laundry?

A. That is right.

Q. Prior to March 6, 1940?

A. I don't know the date, but you mean in connection with this agreement?

Q. Prior to the date the contract was signed.

A. No, sir. I never had any dealings with the gentleman in my life.

Q. You signed the agreement of March 6, 1940 on behalf of Gold Medal?

A. Yes.

Q. You read the agreement before you signed it?

A. I read it.

Q. You knew the provisions of it, did you not?

A. I read it.

Mr. Rosenfield: The agreement of March 6, 1940 that I referred to is in evidence as Trustee's Exhibit 9, just for the record.

Q. Now, you were acting, you testified before, as president of the Gold Medal Laundry Company from its inception up until it ceased to do business, and you also testified that you read that contract of March 6?

A. Yes. I remember that.

413 Q. Can you tell us what parts of the contract of March 6 that Gold Medal undertook to perform were performed by it?

Mr. Topper: I submit the contract is the best evidence, if the Court please.

Mr. Rosenfield: I am not asking about the execution. I am asking about the performance under the contract. I asked this man if he knows.

Mr. Topper: Ask him whether or not he knows.

Mr. Rosenfield: I did ask him that.

The Court: He may state that, to his knowledge.

The Witness: I do recollect especially the part that concerns my indebtedness. Mr. Harry Koplin assumed the obligation to pay me the money owed to me by the corporation.

Mr. Rosenfield: Q. Did you tell Mr. Koplin at that time—strike that out. Did you tell Mr. Koplin that that money was not owed to you by the Gold Medal, but was owed to you from the old corporation, and that that was your means of covering it up?

Mr. Topper: There is an objection to that, if the Court please.

The Court: Yes. The objection is sustained.

Mr. Rosenfield: Q. I asked you a little while ago whether you knew Eva Spiesman, if you ever met her, and you said yes?

414 A. As an employee in the Gold Medal Laundry.

Q. No. As an employee of the La Salle Audit Company, who opened the books for the Gold Medal Laundries?

A. I don't know about that, whether she opened them or somebody else opened them. I know nothing about the books.

Q. Do you recall telling her at the time she was opening the books that the money that was owed to you by Strand Family was to show on these books one way or another, and that you insisted on the thirty-one hundred dollars showing? Do you remember that conversation?

A. I never had any conversation in my life with Miss Eva Spiesman or any one else concerning the thirty-one hundred dollars to be put on the books.

Q. You never had a conversation with anybody concerning the note due to you as covering the former obligation of the Strand Family Laundry to you?

A. Yes. I had a conversation.

Q. With whom?

A. With Robert Millman, S. F. Millman and S. Millman, but not to cover up any previous indebtedness.

Q. The fact is, you obtained that note in order to cover the indebtedness of the old Strand Family Laundry, isn't that true?

Mr. Topper: I submit he has already testified to that. He said—

415 The Court: (Interrupting.) Let him finish the question.

Mr. Rosenfield: Q. Isn't that true?

A. I am sorry, but I didn't obtain it. It was given to me.

Q. You signed that note yourself?

A. Yes, sir.

Mr. Topper: How many times do you want that question answered?

The Court: He has answered it before.

Mr. Topper: About six times.

The Court: No, it was not six.

Mr. Topper: Then three.

Mr. Rosenfield: Q. Trustee's Exhibit 5, which is that resolution we were referring to before, was signed in your presence, was it not?

A. I answered before I don't remember. I know Miss Kordine's signature.

Q. Isn't it a fact you went to the Cardinal Launderers, where this young lady was employed, to have her sign this resolution?

A. What is that?

Q. Isn't it a fact you went to her place of employment to have her sign that resolution?

A. No.

Q. You said before that Harry Koplin agreed to \$416 pay you thirty-one hundred dollars, did you not? Did I understand you correctly?

A. I didn't say that.

Q. Oh, I am sorry.

The Court: He said that he assumed to pay him the obligation that was due. Is that right?

The Witness: Correct.

Mr. Rosenfield: Q. Harry Koplin assumed to pay your obligation of thirty-one hundred dollars?

A. Under the contract.

Q. Under the contract of March 6?

A. You asked me whether I am familiar with the contents of the contract?

Q. The question I asked you was whether you were referring to the contract of March, that is, this contract, Trustee's Exhibit 9?

A. Yes, sir.

Q. And the only reference you have to the assumption of your obligation by Koplin is this contract which I just showed you?

A. By Harry Koplin?

Q. Yes?

A. Yes, sir.

Mr. Rosenfield: That is all with this witnesses.

417 — Cross-Examination by Mr. Topper.

Q. Mr. Arnopolin, this stock that had been issued to you, was that ever delivered to you?

A. I never had it in my possession for one minute.

Q. Have you ever participated in any stockholders' meetings that you recall?

A. No, sir.

Q. Have you ever participated in any directors' meetings?

A. No, sir.

Q. Have you participated in any special meetings or general meetings of stockholders or directors of the Gold Medal corporation?

A. No, sir.

Q. In September, at the time the Gold Medal corporation was organized, had there been any insurance policies that had been transferred to the Gold Medal corporation by the receiver in bankruptcy of the Strand Family Laundry, that you know of?

A. Yes, sir.

Q. Those policies had been issued to the Strand Family Laundry, had they not?

A. Yes, sir.

Q. And you were the insurance broker for those 418 policies, is that correct?

A. Yes, sir.

Q. Tell us the type of policies they were.

A. They were various policies, covering fire insurance and burglary, and mostly public liability and property damage on the fleet of trucks. They had about thirty trucks.

Q. What, if anything, was done with these policies at the time Maurice Klein was appointed receiver of the Strand Family Laundry?

A. Some of them were cancelled, and I was ordered by the receiver, Maurice Klein, to take out temporary insurance for the time of the proceedings, but the public liability and property damage contract was continued in force, and—

Mr. Rosenfield: (Interrupting.) I object to this evidence.

Mr. Topper: We shall show that he made the payment of the premiums on the policies, and they were taken over by the Gold Medal and used for nine months after he did that.

The Court: Will you stipulate to that?

Mr. Rosenfield: What is that?

Mr. Topper: That he paid the premiums on all the policies, and the policies went to the receiver, and they were assigned to the Gold Medal, and the Gold Medal used them for nine months after that.

Mr. Rosenfield: I have no knowledge of that.

Mr. Topper: Have you got the policies? Perhaps  
419 we can stipulate to that, and it won't be necessary to go through this testimony. Do you want to stipulate to those facts in the record?

Mr. Rosenfield: No. I won't stipulate to that. I don't see what effect it has on the issues involved in this hearing.

Mr. Topper: Perhaps it won't even be necessary, if I renew my motion to strike the entire line of examination with respect to the consideration for the judgment.

Q. Will you name the policies that were assigned to the Gold Medal corporation on or about the time it commenced business?

Mr. Rosenfield: I object to that.

The Court: May I ask a question? Is his claim against Gold Medal any part of your petition for turn-over?

Mr. Topper: No, Judge.

The Court: I will sustain the objection.

Mr. Topper: I will renew my motion to strike the testimony of Mr. Arnopolin with respect to the judgment or the consideration for the judgment.

The Court: I will sustain that motion.

Mr. Rosenfield: I offer that evidence as a tender of proof to sustain this position, if the Court please: This man is one of the petitioning creditors in the petition  
420 upon which an adjudication was had. The adjudication rests, necessarily, upon the formal petition.

The Court: Is there a contest on the adjudication?

Mr. Rosenfield: We can't contest it. These are facts being brought out in this proceeding on the petition for turn-over order. It makes no difference where the facts are ascertained or when, for the first time, those facts are ascertained. If those facts are just ascertained now, and it is a question that goes to the entire jurisdiction of the Court, it can be raised at any time. It is a jurisdictional proposition.



The Court: Did you attack the jurisdiction? You have answered this petition, have you not?

Mr. Rosenfield: With the knowledge we had at that time.

The Court: I will sustain the motion of counsel for the trustee.

Mr. Rosenfield: I would like leave to file a written motion and present argument on it.

The Court: All right. Let us go ahead. I will give you leave to do that.

Mr. Rosenfield: I think that is important enough to have that question determined before we proceed with anything else.

The Court: Off the record.

421 Mr. Rosenfield: I will renew my motion to tender, as evidence, the evidence obtained from this witness on the examination on behalf of the respondents.

Mr. Topper: On that question, the Court will be submitted written abstracts and briefs.

The Court: Yes.

Mr. Rosenfield: I would like to go into that immediately.

The Court: You don't have to. If you want me to, I will preserve the record for you by reserving my ruling and not considering it at this time. Off the record.

Mr. Rosenfield: I think our position is valid, and I would like to be given an opportunity to be heard on it.

The Court: Do you want to argue it now?

Mr. Roesnfield: I would like to present a written motion.

The Court: I will continue this until three o'clock this afternoon.

(Witness Excused.)

Whereupon an adjournment was here taken to the hour of three o'clock P. M., same day, April 9, 1942.

April 10, 1942,

11:30 o'clock A. M.

(Caption—76517)

## ADJOURNED HEARING ON PETITION OF TRUSTEE.

Court re-convened in the above entitled cause, at the hour of eleven-thirty o'clock A. M., April 10, 1942, pursuant to adjournment heretofore taken herein.

Present:

Same counsel as before, to-wit:

Mr. Russell J. Topper, appearing on behalf of Harry W. Cline, trustee, and petitioning creditors.

Messrs. Kaylan & Rosenfield (By Mr. Ben Rosenfield), appearing on behalf of respondents.

Mr. Eli Herman, appearing on behalf of a creditor.

423 The Court: You have so many points, I would like to have you submit a brief and authorities in support of your motion.

Mr. Rosenfield: I will be very happy to do that.

The Court: Because otherwise I am against you on your point, because I think Mr. Topper has briefly stated the grounds upon which I make my ruling. At the same time, I don't want to be hasty or exercise judgment against you if there is any point or merit to your contention, which I doubt. I greatly doubt it, but, at the same time, I want to give you the benefit of some research. You submit a brief. Can you do it in five days?

Mr. Rosenfield: I could, if it were not for the fact that I have a hearing set for the next five days.

The Court: Well, how is ten days?

Mr. Rosenfield: That will be all right.

The Court: Within ten days. All right. In the meantime, do you want to offer additional proof that shall be accepted without prejudice to your motion?

Mr. Rosenfield: As I say, I have a hearing on every day next week.

The Court: All right.

Mr. Rosenfield: Would your Honor set this for a week from Monday?

The Court: Today is the 10th, and I will have to set that around the end of April some time. April 23 is a clear day. Thursday, the 23rd of April. Do you want the morning or the afternoon?

Mr. Rosenfield: The morning, preferably.

The Court: All right. Ten-thirty, on April 23.

Mr. Topper: Let us understand whether or not he will require any additional time. Let us close proofs then.

The Court: Do you want to close on that day?

Mr. Rosenfield: Yes.

The Court: Can you do it? We will start at ten o'clock, if you can. I will give you two and one-half hours. Is that all right?

Mr. Rosenfield: Yes.

The Court: We will start at ten o'clock, and you will have the entire morning April 23. In the meanwhile, "Leave respondents file brief and argument in support of motion to dismiss trustee's petition for turn-over."

Mr. Topper: I will want about three days after that to answer, if it is necessary.

The Court: Yes.

Mr. Topper: I may propound it orally, but I would like three days, anyway.

Mr. Rosenfield: I understand that order is ten days, is that correct?

The Court: Within ten days. I am not going to rule you to respond in three days, but I will set it for the 23rd, at ten A. M.

Whereupon an adjournment was here taken to the hour of ten o'clock A. M., April 23, 1942.

426.

BEFORE REFEREE IN BANKRUPTCY

ARCHIE H. COHEN.

April 23, 1942,  
Ten o'clock A. M.

(Caption—76517)

## HEARING ON PETITION OF TRUSTEE.

Court re-convened in the above entitled cause, at the hour of ten o'clock A. M., April 23, 1942, pursuant to adjournment heretofore taken herein.

Present:

Same counsel as before, to-wit:

Mr. Russell J. Topper, appearing on behalf of the trustee and petitioning creditors.

Mr. Ben Rosenfield, appearing on behalf of the respondents.

427 Mr. Rosenfield: I am withdrawing that motion that was pending here.

The Court: All right. The record may show that the motion is withdrawn.

Mr. Topper: More specifically, that is the motion of the respondents.

The Court: It was a motion attacking the jurisdiction of the Court.

Mr. Rosenfield: That is right.

Mr. Topper: It is withdrawn, and I am going to ask for a ruling upon the trustee's motion to strike all the testimony of Mr. Arnopolin. Your Honor heretofore granted my motion.

Mr. Rosenfield: That is of record, and our offer of the evidence is also of record.

Mr. Topper: But there is no ruling of record.

Mr. Rosenfield: Yes, there is.

Mr. Topper: I asked the Court to withdraw the ruling until the petition was filed. The petition was filed that same afternoon. Your Honor granted my motion to strike, and then it was agreed between counsel and the Court to withhold the ruling.

The Court: I don't recall that.

Mr. Topper: I will read the transcript. (Reading portion of transcript.)

428 The Court: Well, in view of the motion this morning for leave to withdraw the motion to strike—is that it?

Mr. Topper: (Interrupting.) To withdraw the petition of the respondents attacking the jurisdiction of the Court.

The Court: Was there a petition filed?

Mr. Rosenfield: There was just a motion filed.

The Court: Was there a written motion?

Mr. Topper: Yes.

The Court: Leave to withdraw the motion to strike the petition for want of jurisdiction, and I will reiterate the ruling on the motion of the trustee to strike the testimony of Mr. Arnopolin.

Mr. Rosenfield: I again make an offer of proof of the same facts as contained in the testimony of Mr. Arnopolin with reference to his claim as a creditor of this estate.

Mr. Topper: That offer is of record. The testimony of Mr. Arnopolin is your offer of proof.

The Court: And it will be stricken, on the motion of the trustee.

Mr. Topper: That is right.

Mr. Rosenfield: I am calling Mr. Arthur S. Kaplan, who has been sworn and has testified before this proceeding.

429 ARTHUR S. KAPLAN was recalled as a witness by the respondents, having been heretofore duly sworn, and being further examined by Mr. Rosenfield, testified as follows:

Q. You are Arthur S. Kaplan, and you have been sworn and have testified in this case?

A. Yes, sir.

Q. You testified that you represented Mr. Harry Koplin in all of the transactions between Koplin and the Gold Medal Laundries?

A. That is right.

Q. When did those negotiations start?

A. They started in about September of 1939.

Q. And by whom were they undertaken? Who were the parties to those transactions?

A. The negotiations which I carried on were done primarily and almost completely with Robert Millman, who acted as attorney for the individuals and for the Gold Medal Laundries.

Q. And were those negotiations carried on from September of 1939 up to March 6, 1940?

A. Yes. Continuously.

Q. And were those negotiations reflected in the written agreement that is in evidence as Trustee's Exhibit Number 9, dated March 6, 1940?

430 A. You say March 6, 1940?

Q. Yes.

A. Yes. All those negotiations culminated in that agreement.

Q. By whom was the agreement, Trustee's Exhibit Number 9, dated March 6, 1940, drawn?

A. As I recall it, it was drawn in Bob Millman's office.

Q. By whom?

A. By Bob Millman.

Q. Referring to Robert Millman?

A. Robert Millman, yes, sir.

Q. And this agreement incorporated all of the agreements between the parties, is that correct?

A. That is correct.

Q. Were there any other agreements between the parties that were not indicated in this contract, Trustee's Exhibit Number 9?

A. No. I don't believe there were any. There may have been another commitment, such as Mr. Koplin executed, that I knew nothing of, but if there was, this took its place. We considered the matter complete up to that point.

Q. The contract, Trustee's Exhibit Number 9, was the final contract between the parties and incorporated all former dealings and conversations and conferences had between the parties to this agreement?

A. That is correct.

431 Q. From March 6, 1940, the date of the contract, Trustee's Exhibit 9, up until the latter part of June of 1940, who was operating the laundry on the premises at 2621 West Chicago Avenue?

A. The Millmans.

Q. Will you refer to them specifically?

A. Well, Sam H. Millman and Sam F. Millman, and



various other Millmans were in there. I don't remember all their names.

Q. When did Joe Feller come into that picture at the laundry, Mr. Kaplan?

A. That was in the middle of June.

Q. In what capacity did he enter that laundry?

A. As plant manager.

Q. What was his background and experience as an operator of a laundry?

A. Well, in all his active employment, he has been engaged in some line connected with the laundry business. He has engineered plants, and was employed by the Zephyr Laundry Machinery Company as a trouble shooter in laundry plants.

Q. What was his last employment before he became connected with the Gold Medal Laundries?

A. He was with the Zephyr Laundry Machinery Company.

Q. And after he joined the Gold Medal Laundries, did he continue as an employee of the Zephyr Laundry Machinery Company?

432 A. No, he did not.

Q. Now, by the agreement of March 6, 1940, Trustee's Exhibit 9, Koplin was to perform certain conditions herein. I will ask you now, referring to Paragraph 1, the paragraph bearing the numeral "1" in Trustee's Exhibit 9, whether Koplin formed the corporation known as the Laundry Building Corporation?

A. Yes, he did, through me. That is, I applied for it.

Q. In all of these transactions by Koplin, as a matter of fact you were handling all of the items or details, is that correct?

A. That is right.

Q. And was the name "Laundry Building Corporation" adopted by the new corporation?

A. No. It was not available, and I amended it to read "Chicago Laundry Building Corporation."

Q. What was the capitalization of the Chicago Laundry Building Corporation?

A. I believe there was an authorization of seventy-five thousand dollars, and an initial issue of seven thousand dollars, as I recall it. That seven thousand dollars represented the amount of money paid to the First United Finance.

Q. And were the common shares of a par value of ten dollars a share?

433 A. I don't recall. I believe they were.

Q. Did Koplin purchase of the First United Finance Corporation its right, title and interest in the real estate at 2621 West Chicago Avenue?

A. We entered into a contract for the purchase of that real estate and certain conditional sales and chattel mortgages that were in the possession of the First United.

Q. What portion of that contract with the First United Finance Corporation has been performed by Harry Koplin?

A. Well, we performed all of it. There is a balance of forty-five hundred dollars, which we tendered several months ago, and they were unable to deliver title to us.

Q. Was that tender of forty-five hundred dollars made in compliance with the terms of the contract?

A. Yes.

Q. The contract you refer to between Harry Koplin and the First United Finance Corporation is Trustee's Exhibit 3 of January 20, 1942, and is signed by yourself, as agent for the proposed Laundry Building Corporation. Was that executed by you in accordance with authority granted you by Mr. Koplin?

A. Yes, sir.

Q. And all of this contract, Trustee's Exhibit Number 3 of January 20, 1942, has been fully performed by Harry Koplin or by you or by the new corporation, which is  
434 now known as the Budget Laundry Company?

Mr. Topper: Just a minute. That is objected to, as calling for a conclusion. He is asking this witness as to whether or not there has been full performance according to a contract. The only evidence that could possibly show that is factual evidence as to what he did.

The Court: Yes. I will sustain the objection.

Mr. Rosenfield: Q. I refer you to Trustee's Exhibit Number 3 of January 20, 1942, which is the contract between Arthur S. Kaplan, as agent for the Laundry Building Corporation, a proposed corporation, and the First United Finance Corporation, and I will ask you whether you, in such capacity as agent, purchased from the First United Finance Corporation "chattel mortgage executed April 16, 1937, securing note in amount of \$17,350.00, and filed in Recorder's Office at Cook County, Illinois, as Document No. B9266121"

A. Yes.

Q. And in the same regard with reference to "chattel mortgage dated December 23, 1937, securing chattel mortgage note for \$5,026.00, and filed in Recorder's Office at Cook County, Illinois, as Document No. B973597?"

A. Yes, sir.

Q. And in the same regard with reference to "chattel mortgage dated November 29, 1938, securing chattel mortgage note for \$3,402.73, and filed in Recorder's Office 435 at Cook County, Illinois, as Document No. B1047266?"

A. Yes.

Q. And in the same regard with reference to "three conditional sales contracts dated October 6, 1938 for \$809.00?"

A. That is right.

Q. And in the same regard with reference to the following described real estate: "Lots 6, 7, 8, 9 and 10 in the Resubdivision of Block 3 (Except the East 67 feet thereof) in Wright and Webster's Subdivision of the North East quarter of Section 12, Township 39 North, Range 13, East of the 3rd Principal Meridian, in Cook County, Illinois, also known as 2621-31 West Chicago Avenue, Chicago, Illinois?"

A. Yes.

Q. I ask you what you paid for the items described as these three chattel mortgages and three conditional sales contracts, and the described real estate?

A. My recollection is, the contract was for twenty-one thousand dollars.

Q. That is right.

A. We paid sixteen thousand five hundred dollars and the accruing interest at the rate of either six or five per cent that the balance carried, and did tender the balance of forty-five hundred dollars and accrued interest up to that time. I would say it was about the beginning of 1936 this year, some time in January of this year.

Q. Do I understand you to say that all of the twenty-one thousand dollar consideration expressed in this agreement has been paid except forty-five hundred dollars?

A. That is correct.

Q. And as to that forty-five hundred dollars, that has been tendered the First United Finance Corporation?

A. That is correct.

Q. And has that been accepted or received by the First United Finance Corporation?

A. Well, they are willing to accept it, but they are not able to make delivery of the title to the real estate, free and clear of liens.

Q. As provided for in this contract, Trustee's Exhibit 3 of January 20, 1942?

A. That is right.

Q. Was any of this twenty-one thousand dollars or any of the amount of sixteen thousand five hundred dollars which has been paid to the First United Finance Corporation—was any of that contributed by Gold Medal or any one connected with Gold Medal?

A. No.

Q. Referring you again to Trustee's Exhibit 9, the contract of March 6, 1940, did Harry Koplin, either 437 himself or by you, as agent, pay and satisfy the indebtedness due and owing to the Huebsch Company?

A. He did, himself.

Q. To the Prosperity Company?

A. Yes, sir.

Q. And to the Zephyr Laundry Machine Company?

A. Yes, sir.

Q. Referring you to the same contract, to the same exhibit did Harry Koplin or you, as his agent, purchase of Maurice A. Ginsburg all of the right, title and interest of Maurice A. Ginsburg in the assets purchased by him at the receiver's sale of the Strand Family Laundry Company, a corporation, bankrupt?

A. Yes, sir.

Q. What was the consideration paid for the purchase from Maurice Ginsburg?

A. Thirty-nine hundred dollars.

Q. Was that the total consideration?

A. That was the total paid.

Q. Were any payments made to wage claimants?

A. Yes, they were. I don't know just how to describe it. The drivers had signed notes at various credit unions and loan associations, for the benefit of the Millmans. These notes were primarily the liability of these drivers, and the drivers' union called that to the attention of the pur- 438 chasers at the sale of the Strand Family Laundry.

Q. You are referring to Maurice Ginsburg and Max Heiman?

A. Yes, and we bought subject to that obligation to pay them, and we did pay those indebtednesses, and paid all other wage claims and outstanding checks, running two or three thousand dollars.

Q. Are you referring to wage claims of the Strand Family Laundry or the Gold Medal Laundries?

A. Well, part of these wage claims accrued while the Gold Medal was in existence.

Q. And the balance of them?

A. And part accrued while the Strand Family Laundry was in existence.

Q. How much was paid on wage claims of the Strand Family Laundry, if you know?

A. That is difficult to recall. There were quite a number of claims.

Q. Did you pay all of the wage claims that were presented arising out of the Strand Family Laundry?

A. Mr. George Knott of the Union listed for us what he designated as those claims.

Q. What union was that?

A. The Drivers' Union.

Q. Were all of those claims paid?

439. A. Yes, they were.

Q. And those claims that you are referring to, are those the wage claims of the Strand Family Laundry Company, bankrupt?

A. That is right.

Q. Whose money was it that was used to pay those claims?

A. Harry Koplin's.

Q. Was any of that money contributed by the Gold Medal Laundries or anybody connected with the Gold Medal Laundries?

A. Not a penny.

Q. Were the real estate taxes levied and assessed against the real estate located at 2621-31 West Chicago Avenue paid by Harry Koplin or by yourself?

A. No. We were unable to pay them until the title was clear.

Q. Those are dependent upon the transfer of title, is that right?

A. That is correct.

Q. Under the contract referred to as Trustee's Ex-



hibit 3 of January 20, 1942, between yourself and the First United Finance Corporation?

A. That is right.

Q. What was done by Harry Koplin or yourself, as his agent, or the Budget Laundry with reference to paying any other legal obligations of the laundry which Kop-440 lin in his discretion might approve for payment?

A. They were not paid. What were contemplated in that paragraph were certain attorneys' fees that accrued during the negotiations, which the Gold Medal assumed to pay to me, to Robert Millman and to Arthur Goldberg.

Q. Those were not approved by Koplin and therefore were not paid, is that correct?

A. That is right.

Q. What was done with reference to paying such state and federal taxes as the proposed corporation, that is, the new corporation, might incur? Were all state and federal tax obligations of the Budget Launderers paid?

A. Yes. They have been paid.

Q. I refer you to paragraph (g), on page 2, of the contract described as Trustee's Exhibit Number 9, which refers to the payment of "any incidental cost or expense incurred in the organization of the proposed corporation." Did you pay "any incidental cost or expense incurred in consummating any and all transactions set forth herein-441 above"? I ask you whether those payments were made?

A. Yes, they were.

Q. Now, the payments we have been referring to that were required to be paid by Koplin under this contract, Trustee's Exhibit 9, were made within what time, or 441 what period of time after March 6, 1940?

A. Those things that I testified to, I believe the final completion took place in June of 1940. It took place at various dates up to June of 1940.

Q. And were shares of stock equivalent to the amount of money paid in by Koplin issued to Koplin by the new corporation?

A. Yes. They may not have been issued to him personally. I believe I took them in my own name and held them for him.

Q. Now, from the time of the entering into of this contract, March 6, 1940, until the latter part of June of 1940, were any payments made by Gold Medal or by anybody on



behalf of Gold Medal Laundries, as required to be made in this contract?

A. No.

Q. Was any amount of money ever paid to Koplin, to yourself or to the new corporation that was formed, then known as the Chicago Laundry Building Corporation, and now known as the Budget Launderers, by the Gold Medal Laundries or by anybody on behalf of the Gold Medal Laundries?

A. None whatsoever.

Q. How long did the Gold Medal Laundries continue in the operation of the laundry business at 2621 West Chicago Avenue from and after March 6, 1940?

442 A. Up to the end of June of 1940.

Q. What occurred at that time?

A. Well, the stepping in of the federal authorities in connection with a distraint.

Q. When was that?

A. It was the last Saturday in June. It was on a Saturday morning.

Q. Were you present when the federal agents were there?

A. Yes. I was in the office.

Q. Were you there before they came in, or after they came in?

A. I was in there before.

Q. Tell us what occurred.

A. Two men who indicated they were in an official capacity as agents of the Federal Internal Revenue Department indicated that they were about to levy on the property at 2621 West Chicago Avenue. I told them who I was and that I represented the corporation then known as the Chicago Laundry Building Company, and that we were the owners of and had title to all these properties, and there was nothing there that belonged to the Gold Medal. The man I talked to said he had no discretion in the matter, and I asked him to withhold any action for a couple of hours, until I got downtown and talked to his superior, which he did. I went downtown and did talk to him, 443 and brought whatever documents I had available at the time, and he did withhold action.

Q. Those are the same documents that are in evidence here as various exhibits?

A: That is right, indicating that we did purchase the plant.

Q. Now, up to that date I understood you to say that neither Gold Medal nor anybody on behalf of Gold Medal had paid one cent in accordance with the terms of that undertaking on March 6, 1940?

A. Not a nickel.

Q. As a matter of fact, has anything been paid since that date?

A. Nothing at all. You mean to the Federal government?

Q. No. Has anything been paid to the new corporation or to Harry Koplin on account of moneys advanced by him?

A. No.

Q. Now, what occurred then with reference to the continued operation of the business by Gold Medal after the federal men were there on the day you described?

A. Well, we—when I say "we", I mean myself and Sam F. Millman and Jo Feller—discussed this matter at some length. This procedure by the Internal Revenue Department coming on top of all the reverses the laundry had had for several months, it was decided that the Gold

Medal was through regardless of what plan was offered 444 in the March 6 agreement. Millman threw up his hands and said: "It is just as well that I give up." I said: "All right. We will come in Monday morning."

Q. When you referred to Mr. Millman, which Mr. Millman was that?

A. I referred to Sam F. Millman. Sam H. Millman at that time was not in the organization, after the advent of Joe Feller.

Q. How many Millmans were there in the Gold Medal Laundries, Mr. Kaplan?

A. They were strewn all over the place. They were employed in almost every capacity throughout the plant, from president down to—

Q. (Interrupting.) Well, Mr. Arnopolin was president, wasn't he?

A. Well, I mean at one time. From executives down to sweeping the floors. There was a driver who was one of the sons, and there was a bookkeeper who was one of the sons, and the father was doing some work there.

Q. What happened the following Monday? Were the Millmans there in the laundry?

A. Yes. Sam F. did come around from then on. He came in there and met me at my office and met me at Harry Koplin's office in regard to negotiating for his keeping 445 out of the laundry business.

Q. That is the older Millman, is that right?

A. Yes. I am referring to Sam F. That is the uncle of Sam H.

Q. Were those the negotiations that culminated in the agreement of August 2, 1940, which is in evidence as Trustee's Exhibit Number 15 of January 20, 1942?

A. Yes.

Q. From the day you fixed as the Monday after the Saturday the Internal Revenue men were in the plant until the date of that agreement in August of 1940, did Sam F. Millman continue in the operation of the laundry business at 2621 West Chicago Avenue?

A. No, he did not.

Q. Was he on the payroll of the laundry during that time?

A. I wouldn't know. I don't think so.

Q. Do you know whether he was employed in any capacity during that period of time?

A. No. That was the time when I was there practically all of the time talking with him. If he did any work, he certainly didn't do it in my presence, and I was there almost all day.

Q. Every day?

A. Every day.

Q. Who carried on the laundry business from and 446 after the day the Internal Revenue men were there at the plant at 2621 West Chicago Avenue?

A. Well, I did, and the men I hired. Joe Feller was one. I hired a manager of the routes, and I was watching over the purse-strings. That was all I could do.

Q. Now, were any of the trucks that were operated by the Gold Medal Laundries ever put in use by the Budget Launderers?

A. Maybe for a few days.

Q. What became of those trucks, do you know?

A. I don't know.

Q. Did you or Harry Koplin or the Budget Launderers

take any of the trucks belonging to the Gold Medal Laundries or being used by the Gold Medal Laundries?

A. No, we did not.

Q. Did you use any of them to apply on the purchase price of the new trucks purchased by the Budget Launderers?

A. We did not.

Q. Did you sell or salvage any of the old trucks used by the Gold Medal Laundries, as junk?

A. We did not.

Q. Did Harry Koplin or the Budget Launderers ever sell or acquire the proceeds of any sale of old trucks used by the Gold Medal Laundries, as junk?

A. None at all.

447 The Court: Do you know how many trucks there were?

Mr. Rosenfield: Of whose? The old ones?

The Court: Yes.

Mr. Rosenfield: There is some evidence in the record as to that.

Mr. Topper: Fifteen.

The Witness: Fifteen old ones?

Mr. Topper: Yes.

The Witness: There must have been more than that.

Mr. Topper: There were fifteen old ones and five purchased within a period of one year before June 12, 1940.

The Court: You think there were more than fifteen?

The Witness: Oh, certainly.

The Court: You don't know what happened to them?

The Witness: No. All I did at the time—that was just around the beginning of July. I located the certificates of ownership, and I noticed that on each one there was a chattel mortgage and conditional sale lien indicated. I called these people. I knew the National Bond was one. G. M. A. C. was another.

Mr. Rosenfield: Q. That is General Motors Acceptance Corporation?

A. Yes, and one other independent outfit. I don't recall the name. I called them up and told them here  
448 were their trucks, and to take them. Frankly, I never saw them take them, but I understood they did repossess them, and that was the end of that, as far as I was concerned.

Mr. Topper: You mean there were two blanket chattel mortgages covering all the trucks?

The Witness: There were more than two. I said there are three I can recall at this moment, the National Bond and the General Motors Acceptance and one other that I don't remember. Maybe the Merchants Acceptance or Mercantile Acceptance, or something like that.

Mr. Topper: Did they cover all the trucks? Did you ascertain as a fact that the chattel mortgages covered all the trucks?

The Witness: I didn't investigate it.

Mr. Topper: How many trucks did they cover, do you know?

The Witness: I don't know. Whatever trucks were there. I imagine there were twenty or twenty-two. I think twenty or twenty-two.

Mr. Rosenfield: Q. The fact I am trying to ascertain from you is whether you or Harry Koplin or the Budget Launderers took any of the trucks used by the Gold Medal Laundries for your own use or as your own property?

A. None at all.

449 Q. Or whether you transformed any of these trucks into cash or credit on the purchase of new trucks?

A. No.

Q. Or whether you sold, as junk or in any other way, any of these trucks and acquired the cash for them?

A. No, we did not.

Q. Pardon me?

A. No, we did not.

Q. Do you know whether any of the trucks were sold as junk, any of the Gold Medal trucks?

A. I don't know whether they were or not.

Q. You don't know whether they were or not?

A. No, sir.

Mr. Rosenfield: That is all.

The Court: Any cross-examination?

Mr. Topper: Oh, yes, Judge.

The Court: Proceed.

450 *Cross-Examination by Mr. Topper,*

Q. In July or the latter part of June of 1940, when the Federal agents were there, is that the first time you were at the premises in the month of June, 1940?



A. Oh, that was probably the second or third time.

Q. Do you know whether Joe Feller had been there prior to that time, in the month of June?

A. Oh, yes. He was there from the middle of June.

Q. And in the middle of June, you and Joe Feller kicked out the Gold Medal Laundries, is that correct?

A. We did what I told you we did.

Q. The dispossession of the Gold Medal was in the middle of June, 1940, isn't that right?

A. No, it was not.

Q. When was it?

A. It was July 1, 1940.

Q. When did you and Joe Feller kick out the Gold Medal Laundries and the Millmans?

Mr. Rosenfield: I object to the statement about "kicking out".

The Court: Yes. The words "kick out" may be stricken.

Mr. Topper: Q. Let me refresh your recollection as to whether or not you testified at a former examination in this proceeding and stated that the Gold Medal and 451 the Millmans were kicked out in the middle of June of 1940 by you?

Mr. Rosenfield: I am objecting to the statement based on former evidence. There is a transcript here, and it shows what he said.

Mr. Topper: I am directing his attention only to an examination. All he has to answer is whether or not he was asked such a question and whether he made such an answer at that time.

Mr. Rosenfield: I object to the form of the question. The question should be stated to the witness in the exact words in which it was stated in the answer.

Mr. Topper: We will be glad to furnish him with that.

The Court: Objection sustained.

Mr. Topper: Q. Now, to lay a proper foundation, I will ask you whether or not you so testified in a previous proceeding with respect to the dispossession of the Gold Medal Laundries and the Millmans in the middle of June, 1940?

A. I don't follow the question.

Q. Did you testify in a previous examination in this proceeding with respect to the dispossession of the Mill-



mans and the Gold Medal Laundries by you in the middle of June of 1940?

A. I did not.

Q. And you did not at any time use the words: "Kicked out"?

A. I didn't say I didn't say "kicked out".

452 Q. Well, tell me, as a matter of fact, did you or did you not kick out the Gold Medal and the Millmans in June of 1940?

A. What we did and what I may have referred to as "kicked out" is exactly what I testified to on direct, that we discussed it and they threw their hands up, and I said we were coming in on Monday. It may have been the same Saturday afternoon I returned from the loop.

Q. Was Robert Millman at this meeting?

A. No, he was not.

Q. When the Federal agents were there?

A. No, he was not.

Q. Was Samuel H. Millman there?

A. No, he was not.

Q. Was Samuel F. Millman there at that time?

A. Yes, sir.

Q. He was the only one?

A. That is right.

Q. But on June 12, 1940 you had already purchased, through Joe Feller, all of the capital stock of Samuel H. Millman?

A. Joe Feller had purchased Samuel Millman's stock, yes, sir.

Q. In June of 1940?

A. That is right.

Q. Who were the ones that threw up their hands at that time connected with the Gold Medal corporation?

A. Joe Feller and Sam F. Millman.

Q. Joe Feller had gone into possession only in the 453 month of June of 1940?

A. About the middle of June.

Q. And at that time all the capital stock of the corporation was in the possession of whom?

A. Myself.

Q. Has there been a transfer or reconveyance or re-transfer of the stock to any of the original incorporators or stockholders?

A. No, there has not been.

Q. Isn't it a fact, Mr. Kaplan, that Mr. Arnopolin signed his resignation as president of the corporation, and that it has been in your possession and is in your possession at the present time?

A. No.

Q. Did you ever see a signed resignation of Mr. Arnopolin, as president?

A. Never in my life.

Q. There was never such a resignation turned over to you?

A. No.

Q. Do you know of a signed resignation of that character?

A. No.

Q. Do you know whether or not that has ever been discussed by Harry Koplin or Ben Rosenfield, your attorney?

A. I don't follow that question.

Mr. Rosenfield: I don't understand that question, myself.

Mr. Topper: Q. Has the resignation of Mr. Arnopolin, as president of the corporation, been discussed by you or by Rosenfield, if you know?

Mr. Rosenfield: I object to that. Discussed when, where and with whom?

The Court: Well, he has first asked him if he knows it was discussed, and that calls for a "yes" or "no" answer. He may answer that.

The Witness: No. I had no discussion about it at all.

Mr. Topper: Q. Who was president of the corporation in June of 1940?

Mr. Rosenfield: Which corporation?

Mr. Topper: I am talking about the Gold Medal corporation.

The Witness: I believe it was Arnopolin.

Mr. Topper: Q. Now, the contract of March 6, 1940, in substance, was a refinancing agreement between Harry Koplin and the Gold Medal corporation, isn't that right?

A. That is right.

Q. And under that contract you were required to organize a corporation within fourteen days after March 6, 1940, isn't that right?

A. That is right.

Q. Was such a corporation organized within that time?

A. Not within that time.

Q. When was any corporation organized under that contract?

A. In May of 1940, I believe.

455 Q. And under that contract wasn't two-thirds of the capital stock supposed to have been transferred to the Gold Medal corporation?

A. I don't recall the exact terms, but I believe so.

Mr. Rosenfield: I object to calling for an interpretation of the contract. It speaks for itself.

Mr. Topper: Q. Was such stock of the new corporation ever transferred to the Gold Medal corporation?

A. When they performed—

Q. (Interrupting.) Just a minute. Just answer my question. Was it transferred?

A. No. It never was.

Q. When did you first make application with the Secretary of State for the name "Laundry Building Corporation"?

A. Some time shortly before that charter was issued.

Q. That was in May of 1940, was it not?

A. That is correct.

Q. And under this contract wasn't the new corporation required to purchase all of the assets that are described in the contract?

A. Yes.

Q. May I have the contract for the purchase of the realty, or for the purchase of the mortgage, rather? Was the Laundry Building Corporation organized at the  
456 time that contract was executed?

A. No, sir.

The Court: Referring to what?

Mr. Topper: Trustee's Exhibit 3 of January 20, 1942.

The Witness: No, it was not.

Mr. Topper: Q. Did the new corporation at any time acquire any funds with which to purchase your interest in this contract?

A. Why, yes. That was capitalized. Certainly. That is why fifty thousand dollars worth of stock was issued.

Q. Tell the Court whether or not your interest in that contract was transferred to the corporation at any time?

A. I haven't made a formal assignment, but I don't deny the ownership of this corporation.

Q. That is all I am interested in knowing. You don't deny its ownership of any interest you may have?

A. No. I hold it for the corporation.

Q. You hold it for whom?

A. For the corporation.

Q. Have you set up in your books and records any interest that you hold under this contract?

A. Definitely.

Q. Have you the books and records here?

A. Yes. I think we have.

Q. Will you kindly point out in the books and records where your interest under that contract is set forth?

45. Will you indicate that? Off the record.

Mr. Topper: Q. What act, if any, did the corporation perform in connection with the acceptance of any interest you may have had in the contract?

A. I don't follow you.

Q. There has never been a complete performance by you under this contract marked Trustee's Exhibit 3 of January 20, 1942, has there?

A. January what? January 20?

Mr. Rosenfield: I object to that. The testimony shows what was done, and it is up to the Court to determine whether there was or was not a complete performance.

The Court: Yes.

Mr. Topper: Q. Maurice Ginsburg's contract was entered into when?

Mr. Rosenfield: That is in evidence.

The Witness: I don't remember.

Mr. Topper: Q. Under the contract, it was required to be entered into or performed within twenty days after the execution of that contract, isn't that correct?

Mr. Rosenfield: I object. That is shown by the contract itself.

The Court: Objection sustained.

458 Mr. Topper: Q. Did you pay off the conditional sales indebtedness on the fixtures and machinery located at 2621 West Chicago Avenue in the year 1940?

A. Yes.

Q. You paid that?

A. Yes. Yes, we did.

Q. I can't hear you.

A. All that we knew of, yes.

Q. Did you pay that?

A. No, I didn't.

Q. Did Harry Koplin pay that indebtedness?

A. Yes.

Q. And the first payment was made to whom, if you know?

A. I don't recall.

Q. The second payment was made to whom, if you know?

A. It was to either Prosperity or Huebsch.

Q. Did you enter into any of the arrangements, as far as the payment of these conditional sales indebtednesses were concerned?

A. No, I did not.

Q. Have you any satisfied conditional sales contracts indicating payment in full of these conditional sales indebtedness?

A. I haven't them in my possession.

Q. You had nothing to do with the payment of any of these conditional sales indebtedness, did you?

A. Not personally, no.

459 Q. When was the last time that you saw the books and records of the Gold Medal corporation?

A. This morning.

Q. And prior to that time when did you see them?

A. Some time in June of 1940.

Q. Did you know that the books and records of the Gold Medal were discovered, for the first time, Tuesday of this week?

A. That is right.

Q. How did you obtain knowledge of their discovery?

A. They called me up.

Q. Who called you up?

A. Ella Rumenap.

Q. Who is Ella Rumenap?

A. She is the bookkeeper.

Q. Did she tell you where she had discovered them?

A. She didn't discover them. Mr. Auerbach did.

Q. Mr. Auerbach?

A. Yes.

Q. What is his first name?

A. Arthur Auerbach.

Q. What is the nature of his employment over there?

A. He is the manager, I guess you would call him.

Q. Have you talked to him since that time?

A. Have I talked to him since that time?



Q. That is right.

A. Just this morning.

Mr. Rosenfield: Just one moment. I want to make an objection. Not to the questioning. Counsel can go as far afield as he wants to, but I actually believe it is not proper questioning. I have hesitated in making an objection, for fear you would think I don't want counsel to have the information he wants, but I don't think it should be a part of this examination or a part of this record.

Mr. Topper: Shouldn't the assets of the Gold Medal be a part of this record? This is a trustee's petition for turnover.

The Court: We have heretofore had inquiry as to the books and records that suddenly have appeared. I was going to ask the question whether or not the Department of Internal Revenue had them.

Mr. Topper: They have been advised of their discovery.

The Witness: I went into the laundry this morning to pick up these books, and I found Mr. Klein there. Frankly, I didn't know he was there.

Mr. Topper: Q. You don't censure him for that reason, do you? He is trustee.

A. No. I tried to help him get them out.

Mr. Rosenfield: I object to these questions.

The Witness: That is how I happened to see him there this morning.

The Court: Rather than have him come back again, let him answer these questions now.

Mr. Topper: Q. Did Mr. Auerbach this morning tell you where he found these books and records?

A. No.

Q. Do you know where these books and records were found on the premises?

A. Yes, I do.

Q. Where?

A. In a shower room off of the office occupied by the route superintendent. It was used apparently for the clothes of the drivers, and there were other discarded things there. I couldn't make out what was in there.

Q. On what floor of the premises is this shower room?

A. On the second floor.

Q. It is also on the same floor that your office is?

A. You mean the office I used to use there?



Q. That is right. The office that was there in June of 1940.

A. Yes.

Q. How far is it from your office?

A. It is off the adjoining office.

Q. That is, the shower room is adjoining your office?

A. No. The shower room does not open into the office I was using. There was an adjoining room, which contained a desk, and two doors opened into that room, or three doors, rather; one into a corridor, one into the shower room next to the corridor door, and next to that was the lavatory door.

Q. Are there any closets in this room?

462 A. Are there any closets?

Q. Yes?

A. Just what I described.

Q. In the shower room itself?

A. No. I don't think I have ever gone into it in my life.

Q. How big a room is it? Can you give us some idea, with respect to this room?

A. A shower stall. I would imagine two feet by three, or something like that. A small space.

Q. And the books and records were on the floor of that space, is that right?

A. I didn't see them.

Q. I didn't ask you whether you saw them. I asked you if you know where they were.

A. That is where they were described as having been found.

Q. On the floor?

A. I don't know where they were found.

Q. This contract of March 6, 1940 had nothing to do with the contract of sale between the Gold Medal and Mr. Ginsburg, did it?

Mr. Rosenfield: I object to that question.

The Court: The objection is sustained.

Mr. Topper: Q. Since March 6, 1940, there has not been any sale or transfer of any interest by Gold Medal to the Chicago Laundry Building Corporation or the Budget Launderers, has there?

A. No.

463 Mr. Topper: That is all.

Mr. Rosenfield: Just one or two questions, to get this straightened out.

*Redirect Examination by Mr. Rosenfield.*

Q. You just testified, in answer to the question of counsel, that you had possession of the stock of the Gold Medal Laundries. That possession was obtained by you how?

A. Well, I was designated as escrowee under the March 6 agreement to hold this and to parcel it out in accordance with the terms expressed and the conditions expressed in that agreement, and if certain things happened, I was to deliver stock to this one and that one, and if certain things did not happen, I was to return it to some other people.

Q. Did any of the conditions occur by which you were required to deliver the stock to persons who were parties to that contract of March 6?

A. No, except that according to my interpretation, although I haven't done so, I could deliver the stock to Harry Koplin.

Q. Your possession of the stock of Gold Medal is purely as escrowee under that contract?

A. That is right.

Q. And you hold it now in that capacity?

464 A. That is right.

Q. Has there been any demand made upon you by anybody to convey the stock?

A. No.

Mr. Rosenfield: That is all.

Mr. Topper: That is all.

(Witness Excused.)

The Court: Do you want another date?

Mr. Rosenfield: Well, I know counsel wants to examine those books.

Mr. Topper: I don't want those books in this proceeding.

Mr. Rosenfield: I think I would like to see them, and I think I have a right to.

Mr. Topper: Well, if the Court please, this is going beyond my comprehension if these respondents are permitted to continue and persist in their requests for extensions and continuances.

The Court: Well, it is now twelve o'clock. I was here at ten, but you gentlemen didn't start until nearly eleven o'clock. It is not my fault. Do you want to go on during the noon hour? I don't know how much time I can give you.

Mr. Topper: They have completed their testimony, and so have we.

The Court: Counsel hasn't said he has rested. What 465 do you want? What day do you want next week? If you want to come back next week on Tuesday, at three o'clock, that is all right, or I have April 30 open, all day.

Mr. Rosenfield: That is all right with me.

The Court: Do you want morning or afternoon?

Mr. Rosenfield: Two o'clock.

The Court: April 30.

Mr. Topper: May I inquire as to what the reason is? I am interested in knowing whether you intend to put any more evidence on.

Mr. Rosenfield: Yes. Off the record.

Mr. Topper: The Court directed that proofs be closed today.

Mr. Rosenfield: There was no such order.

The Court: Do you want me to enter an order that proofs be closed next time?

Mr. Rosenfield: I don't think you should do that. I believe we will be able to complete our proof at that time.

The Court: That is enough. We will continue it to April 30, at two o'clock.

Whereupon an adjournment was here taken to the hour of two o'clock P. M., April 30, 1942.

466 BEFORE REFEREE IN BANKRUPTCY ARCHIE H. COHEN.

April 30, 1942,  
Two o'clock P. M.

(Caption—76517)

ADJOURNED HEARING ON PETITION OF  
TRUSTEE.

Court re-convened in the above entitled cause, at the hour of two o'clock P. M., April 30, 1942, pursuant to adjournment heretofore taken herein.

Present:

Same counsel as before, to-wit:

Mr. Russell J. Topper, appearing on behalf of the trustee and petitioning creditors.

Mr. Ben Rosenfield, appearing on behalf of the respondents.

The Court: Are we ready, gentlemen?

Mr. Topper: Yes, sir. The trustee is ready to proceed.

The Court: All right. Do you have anything further?

Mr. Rosenfield: Just a motion.

The Court: What is your motion?

Mr. Rosenfield: To dismiss the petition for turn-over order, on the basis that the action that was instituted was a summary action. We have established the fact that the respondents to the petition are actually adverse claimants to the property the trustee has asserted an interest in. The property has never come into the possession of the trustee or this court, and it is still retained by the respondents, in accordance with their claim that they own the property, and a summary proceeding is not proper under those circumstances; and the further fact the trustee has also recognized that same situation in filing a plenary action, in which he seeks to enforce, by specific performance, the terms of the contract of March 6, which is in evidence here as Trustee's Exhibit 9, which is itself indicative of the fact the trustee admits the title to the property is in the adverse claimants.

The Court: When was this plenary action filed?

Mr. Rosenfield: It was filed with leave of this court.

The Court: Where?

Mr. Rosenfield: It was filed in the Federal Court.  
468 It is up before Judge Barnes; and it was continued several times, and it is set for May 25. I think that is the proper action to take.

Mr. Topper: The bill that has been filed before Judge Barnes is a bill for specific performance under the contract involving the stock, and it does not seek the recovery of assets.

The Court: I would like to have you do this: I would like to have you file a memorandum and brief, both of you, and summarize the facts and the authorities.

Mr. Topper: Fine.

The Court: And I will be glad to have you exchange briefs. Then I will take it under advisement and make my findings and conclusions.

Mr. Topper: In addition to that, I will submit my transcript, together with an abstract. I have my brief already prepared, and all I need to prepare is my response to his brief.

The Court: All right.

Mr. Topper: I think the questions he has raised have been decided by the Supreme Court. There are a number of cases covering them.

Mr. Rosenfield: I haven't been able to find them.

Mr. Topper: I will be glad to give them to you.  
469 The Court: Proofs are closed?

Mr. Topper: Proofs are closed.

The Court: Briefs to be exchanged within how many days?

Mr. Rosenfield: Well, Mr. Topper has an advantage over me in having his ready now.

The Court: To be exchanged within fifteen days?

Mr. Rosenfield: That will be enough.

The Court: All right. And taken under advisement.

Mr. Topper: As I understand it now, briefs are to be exchanged, and there is to be no further reply by either side?

The Court: I will say this: If you have yours ready, you give it to counsel, and he can answer yours, and then you can answer his. I will just indicate that the trustee's brief is to be delivered to respondents within how many days?



Mr. Topper: Five days.

The Court: Within five days, and reply brief by respondents—do you want ten days thereafter?

Mr. Rosenfield: Yes.

The Court: All right. Within ten days thereafter, and you want five days to answer that?

Mr. Topper: Yes.

The Court: Trustee's reply brief within five days  
470 thereafter.

Mr. Topper: Very well.

The Court: All right, gentlemen. Do you want me to adjourn the meeting to a day certain, or sine die?

Mr. Topper: Sine die.

Which were all the proceedings had and evidence introduced in the aforementioned cause, at the time and place aforesaid.

• • •

State of Illinois, }  
County of Cook. } ss.

We, David E. Shipman and Edward F. Moye, do  
471 hereby certify that we are court reporters doing business in the City of Chicago, acting as court reporters in the United States Bankruptcy Court; that we reported in shorthand the proceedings in the aforementioned cause before the Honorable Archie H. Cohen, Referee in Bankruptcy, that we reduced said shorthand notes to typewriting, and that the foregoing is a true and correct transcript of said proceedings.

David E. Shipman,  
*Court Reporter.*  
Edward F. Moye,  
*Court Reporter.*

Subscribed and sworn to before me this 10th day of July,  
1942.

Matthew Jurczak,  
*Notary Public.*



472 IN THE DISTRICT COURT OF THE UNITED STATES.

For the Northern District of Illinois, Eastern Division.

I, Archie H. Cohen, Referee in Bankruptcy, to whom the foregoing matter was referred to hear the evidence, do hereby certify that prior to their testifying the various persons who appeared before me as witnesses were duly sworn to tell the truth, the whole truth and nothing but the truth, and that the foregoing is a true, correct and complete transcript of all the evidence taken before me on the hearings as shown herein.

Archie H. Cohen,  
*Referee in Bankruptcy.*

Chicago, Illinois.

473 TRUSTEE'S EXHIBIT 1-A.

(Letterhead of First United Finance Corporation—  
Chicago.)

March 20th, 1937.

Received from the Strand Family Laundry Company, an Illinois corporation, the sum of \$200.00, for which sum the First United Finance Corporation agrees to hold itself in readiness for a period of ninety days from date hereof to advance and agrees to advance to the Strand Family Laundry Company the sum of \$13,000.00 net, \$10,000.00 of which sum is to be used for the purpose of purchasing from a Master a Certificate of sale under foreclosure of the building at 2621-31 W. Chicago Ave., Chicago, Illinois, and the sum of \$3,000.00 is to be used for the payment of a certain chattel mortgage covering all the equipment and fixtures located on the premises of the Strand Family Laundry Company at 2621-31 W. Chicago Ave., Chicago.

The Strand Family Laundry Company agrees to furnish an authorization of its board of directors and to give to the First United Finance Corporation a chattel mortgage in the amount of \$17,350.00 payable at the rate of \$500.00 a month for twenty-three months and the balance in two years from date of execution of same, with interest

at 6% per annum payable after fifteen months of execution and monthly thereafter.

When the total sum has been paid to the First United Finance Corporation, the First United Finance Corporation agrees to assign to the Strand Family Laundry Company in consideration of the aforesaid sum, the Master's Certificate of sale to the said property.

The First United Finance Corporation agrees that in the event redemption is made of the Master's Certificate within fifteen months of execution, that it will allow to the Strand Family Laundry Company a discount of \$1,850.00.

The chattel mortgage to be given to the First United Finance Corporation, as above described, is to be on all the equipment free and clear of all encumbrances with the exception of one encumbrance to the American Laundry Machinery Company in the amount of approximately \$35,000.00, together with all the good will and lists of customers.

474 In the event the First United Finance Corporation is able to purchase the Master's Certificate for a bid as above described, the First United Finance Corporation agrees to accept the \$200.00 deposit, hereinabove acknowledged, as part of the first payment due under the chattel mortgage. It is understood and agreed that if the sum of \$10,000.00 is insufficient for a bid for the purchase of said Master's Certificate, the \$200.00 hereinabove received shall be declared forfeited as liquidated damages.

In the event the Strand Family Laundry Company is able to obtain a cut in the fees of the Master or attorneys for the complainants, such savings so effected shall be retained by the Strand Family Laundry Company.

First United Finance Corporation,

By: \_\_\_\_\_

*Vice-President.*

Accepted,

Strand Family Laundry Company,

By: Sam F. Millman.

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TRUSTEE'S EXHIBIT 2.

(Letterhead of First United Finance Corporation—  
Chicago.)

Received of First United Finance Corporation check for \$1,000.00. Said money is to be used as a deposit on a bid to be made by the undersigned on behalf of said corporation at a foreclosure sale in the Matter of Chicago Title & Trust Company vs. Strand Wet Wash Laundry Co., Case #B223992, to be held Monday, April 19, 1937. It is understood that said bid shall be for the sum of \$10,000.00, and shall under no circumstances be in excess thereof.

If said bid is approved by the court, the First United Finance Corporation is to pay the balance of said bid at said time. In the event that said bid is not sufficient at said foreclosure sale or in the event the said bid is not approved by the court, then said sum of \$1,000.00 is to be returned to the First United Finance Corporation. It is understood that the undersigned shall not charge the First United Finance Corporation any attorney fees or other charges in connection with said bid.

Dated this 17th day of April, 1937.

Irving S. Berman.

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TRUSTEE'S EXHIBIT 3.

(Letterhead of First United Finance Corporation—  
Chicago.)

June 29th, 1937.

Strand Family Laundry Co.,  
2621 W. Chicago Ave.,  
Chicago, Ill.

Gentlemen:

We herewith acknowledge that we have this date received a Special Commissioner's Certificate of Sale covering the premises described as follows, to wit:

Lots Six (6) to Ten (10) inclusive, in the Resubdivision of Block Three (3) (except the East 67 feet thereof) in Writ and Webster's Subdivision of the North East quarter of Section Twelve (12), Township Thirty-nine (39)

North, Range Thirteen (13), East of the Third Principal Meridian,  
together with all buildings and improvements thereon and  
tenements, hereditaments and appurtenances thereunto be-  
longing.

We herewith agree as soon as your chattel mortgage loan  
to us is paid in full to assign to you or your nominee this  
Certificate of Sale.

Yours very truly,

First United Finance Corporation,

By: \_\_\_\_\_  
Vice-President.

RWF:FB

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### TRUSTEE'S EXHIBIT 4

Special Commissioner's Deed: (Illinois)

No. 575

Book 35417—Page 432.

This Indenture, made this fourth (4th) day of November  
A. D. 1939, between Gerald R. Gorman, Special Commis-  
sioner of the Circuit Court of Cook County, in the State  
of Illinois, party of the first part, and First United Finance  
Corporation, a corporation, of County of Cook and State  
of Illinois, party of the second part, Witnesseth:

Whereas, In pursuance of a decree entered on the 21st  
day of November, A. D. 1932, and an order made and  
entered on the 24th day of March, A. D. 1937, by the Cir-  
cuit Court of said Cook County, in a certain case then  
pending therein, on the Chancery side thereof, wherein  
Chicago Title and Trust Company, as Trustee, was Com-  
plainant and Strand Wet Wash Laundry Co., a corporation,  
et al., were Defendants, the said Special Commissioner  
duly advertised, according to law, the premises hereinafter  
described, for sale at public auction, to the highest and  
best bidder for cash at the hour of One (1) o'clock, in the  
afternoon (Central Standard Time) on the 19th day of  
April, A. D. 1937, at Board Rooms of the Board of Appeals  
of Cook County, Room 337, County Bldg., in Chicago, Illi-  
nois, in said Cook County.

And whereas, at the time and place so as aforesaid  
appointed for said sale, the said Special Commissioner  
attended to make the same, and offered and exposed said

premises for sale at public auction, to the highest and best bidder for cash and thereupon First United Finance Corporation, a corporation, offered and bid therefor the sum of Thirteen Thousand Dollars (\$13,000.00); and that being the highest and best bid offered, said Special Commissioner accordingly struck off and sold to said First United Finance Corporation, a corporation, for said sum of money, the said premises, and did thereupon sign, seal and deliver to said First United Finance Corporation, a corporation, the usual Special Commissioner's certificate therefor:

And Whereas, Said premises have not been redeemed from said sale; Now, Therefore, in consideration of the premises, the said party of the first part doth hereby convey unto the said party of the second part, its successors and assigns, the said premises, which are situated in City of Chicago, County of Cook and State of Illinois, and described as follows, to-wit:

Lots Six (6) to Ten (10) inclusive, in the Resubdivision of Block Three (3) (except the East 67 feet thereof) in Writ and Webster's Subdivision of the North East quarter of Section Twelve (12), Township Thirty-nine (39) North, Range Thirteen (13), East of the Third Principal Meridian; together with all buildings and improvements thereon and tenements, hereditaments and appurtenances thereunto belongigg.

(United States Internal Revenue Documentary Stamps —\$13 dollars.)

To Have and to Hold The same, with all the appurtenances thereunto belonging unto the said party of the second part its successors and assigns forever.

Witness The hand and seal of the said party of the first part, the day and year first above written.

Gerald R. Gorman, (Seal)

*Special Commissioner of  
the Circuit Court of  
Cook County.*

Filed: Oct. 21, 1943. Roy H. Johnson, clerk.



Gerald R. Gorman, Special Commissioner,

To

First United Finance Corporation, a corporation,

State of Illinois }  
Cook County } ss. No. 12394936.

Filed for Record: 1939, Nov. 9, P. M. 4:20, and recorded  
in Book 35417, Page 432.

Edward J. Kamdl,  
Recorder.

Mail:

Maurice Turner  
1819-77 W. Washington St.  
Chicago, Ill.

Book 35417. Page 433.

State of Illinois }  
County of Cook } ss.

I, Marion E. Morgan, a Notary Public in and for the  
said Cook County in the State aforesaid, Do Hereby Cer-  
tify, that Gerald R. Gorman, Special Commissioner of  
said Cook County, who is personally known to me to be  
the same person whose name is subscribed to the foregoing  
Instrument, appeared before me this day in person, and  
acknowledged that he signed, sealed and delivered the said  
Instrument as his free and voluntary act as such Special  
Commissioner, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 4th day of  
November, A. D. 1939.

Marion E. Morgan,  
Notary Public.

(Seal)

Filed: Oct. 21, 1943. Roy H. Johnson, clerk.



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## TRUSTEE'S EXHIBIT 5.

R. Kordine, secretary of Gold Medal Laundries, Inc., does herewith certify that the following resolution was duly adopted at a meeting of the Corporation held at the offices of the Company on the 11th day of September, 1939:

"Whereas S. I. Arnopolin has subscribed for 148 shares of the Corporation and has agreed to pay therefor the sum of \$2960.00; and

Whereas S. I. Arnopolin proposes to pay for said subscription by causing Maurice A. Ginsburg to convey, transfer and assign to this Corporation the following assets:

All of his right, title and interest in and to any and all property which formerly belonged to Strand Family Laundry Co., a bankrupt, said property being real, mixed and personal, pledged or unpledged, including trade names, good will, customers routes, customers lists, and the right to use the name "Strand Family Laundry", all subject, however, to whatever liens, claims or encumbrances there are or may be asserted against any or all of the aforementioned property; and

Whereas said property, subject to all liens, and encumbrances, is worth the sum of at least \$12,200.00; and

Whereas the said Maurice A. Ginsburg has agreed to convey, transfer and assign all of his right, title and interest in the said property to the Corporation for the sum of \$6100.00;

Now, Therefore, Be It Resolved, That the president and secretary of this Corporation shall issue and deliver to S. I. Arnopolin or his nominee or nominees a certificate or certificates representing 148 shares of this Corporation and said shares shall be deemed fully paid, and nonassessable.

Further Resolved, That the president and secretary shall be and are herewith empowered to execute a note or notes of the Corporation to S. I. Arnopolin for the sum of \$3100.00 in compensation of the surplus value of all of the aforementioned property over and above the capital shares issued to him."

R. Kordine,  
Secretary.

(Seal)

Filed: Oct. 21, 1943. Roy H. Johnson, clerk.

## TRUSTEE'S EXHIBIT 6.

Gold Medal Laundries, Inc.  
Chicago, Illinois  
Balance Sheet—March 31, 1940

## Assets

## Current Assets:

Drivers' Balances	\$ 1,782.27	
Deposit—Illinois Bell Telephone Co.	250.00	
Deposit—Commonwealth Edison Co.	90.00	
Cash Exchange	246.07	\$ 2,368.34

## Prepaid Expenses:

Unexpired Insurance	\$ 699.93	
Prepaid Licenses	258.09	958.02

## Fixed Assets:

Land	\$ 8,000.00	
Building	27,000.00	
Machinery and Equipment	40,348.30	
Furniture and Fixtures	1,500.00	
Delivery Equipment	5,863.92	

\$82,712.22

Reserve for Depreciation	3,000.00	79,712.22
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## Total Assets

\$83,038.58

## Liabilities and Net Worth

## Current Liabilities:

Bank Overdraft	\$ 5,974.00	
Accrued Payroll	1,156.65	
Accounts Payable	744.87	
Drivers' Securities	2,300.00	
Notes and Loans Payable	64,478.49	
Accrued Liabilities	13,588.64	\$88,242.65

## Net Worth:

Capital Stock	\$10,000.00	
Unissued Capital Stock	7,000.00	\$ 3,000.00

Deficit (Net Loss for Period)	8,204.07	5,204.07
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## Total Liabilities and Net Worth

\$83,038.58

Filed: Oct. 21, 1943. Roy H. Johnson, clerk.

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Gold Medal Laundries, Inc.  
Chicago, Illinois  
March 31, 1940

## Notes and Loans Payable:

General Motors Acceptance Corp.	\$ 699.16
H. Leon	195.70
M. A. Ginsburg	4,540.00
Personal Loan and Savings Bank	110.36
Merchants National Bank	2,082.28
S. I. Arnopolin	3,143.00
First United Finance Corp.	24,500.00
Zephyr Laundry Machinery Co.	22,140.66
Prosperity Co.	2,213.08
National Bond & Investment Co.	1,461.14
Metropolitan Foundation # 1	599.80
Metropolitan Foundation # 2	229.44
Miscellaneous Loans	2,159.87
Maurice Klein	404.00
Total	<u>\$64,478.49</u>

## Accrued Liabilities:

Accrued Interest on Notes and Loans	\$ 3,000.00
Accrued Real Estate Taxes	6,900.00
Accrued Interest on Drivers' Securities	370.50
Accrued Personal Property Tax	300.60
Accrued Social Security Taxes	3,018.14
Total	<u>\$13,588.64</u>

Filed: Oct. 21, 1943. Roy H. Johnson, Clerk.

## TRUSTEE'S EXHIBIT 7

January 23, 1940.

Arthur S. Kaplan  
188 W. Randolph St.  
Chicago, Illinois

Dear Sir:

I understand that negotiations are under way for the execution of an agreement between Gold Medal Laundries Inc. and Harry Koplin, under the terms of which Harry Koplin is to agree to advance sufficient funds to the Gold Medal Laundries Inc. to acquire the real estate located at 2621-31 West Chicago Avenue, and the personal property located therein.

In consideration of your entering into such an agreement, and as part of the inducement therefor, and for other good and valuable considerations, receipt whereof is hereby acknowledged, the undersigned hereby agrees that he will sell, transfer, convey and assign to the proposed corporation to be organized under the terms of said agreement between Gold Medal Laundries Inc. and Harry Koplin, all of the right, title and interest acquired by the undersigned by reason of his having purchased all of the right, title and interest of the receiver in bankruptcy of Strand Family Laundry Co., a corporation, and to the assets of Strand Family Laundry Co., a corporation, Bankrupt, at a sale of said assets held in the United States District Court for the Northern District of Illinois, Eastern Division, upon the payment to the undersigned on or before forty (40) days from the date hereof of the sum of Forty Seven Hundred Dollars (\$4700.00), less any amounts received by the undersigned from Gold Medal Laundries Inc. after the date hereof.

Very truly yours,

(Seal)

Witness

Filed: Oct. 21, 1943. Roy H. Johnson, Clerk.

483

TRUSTEE'S EXHIBIT 8

Gold Medal Laundries, Inc.  
Chicago, Illinois

Commitment for Loan

The undersigned, Harry Koplin, understands that at the present time you are engaged in operating a laundry at 2621-31 West Chicago Avenue, Chicago, Illinois.

The undersigned is further informed that the equity in the building located at said address and the equity in all of the personal property located at said address is owned by Maurice A. Ginsburg who purchased the equity in said property at bankruptcy sale.

The undersigned is further advised that the real estate at said address has been sold at foreclosure sale and that a Master's Deed has been issued conveying said real estate to First United Finance Corporation which is holding the same as security for the indebtedness hereinafter described. The First United Finance Corporation is the holder of the said Master's Deed and two chattel mortgages covering certain personal property located on said premises as security for an indebtedness of an undetermined amount which is in the neighborhood of \$20,000.00.

The Gold Medal Laundries, Inc., desires to purchase the said real estate and personal property, and the undersigned, Harry Koplin, is willing and undertakes to supply the necessary financing for the purpose of acquiring the said real estate and personal property upon the following terms and conditions:

1. The undersigned will advance sufficient money to pay to the First United Finance Corporation the amount justly due to the First United Finance Corporation.

2. The undersigned will advance sufficient money to purchase the equity in the said property, real and personal, from Ginsburg, the amount to be advanced not to exceed the amount of \$5200.00.

3. The undersigned will advance a sufficient sum to discharge all real estate taxes levied against the real estate.

4. Upon the payment of said sums by the undersigned, title to the aforementioned real and personal property will be placed in a nominee designated by the undersigned.



The undersigned will likewise cause to be conveyed to the said nominee all of his right, title and interest in and to a conditional sales contract now held by him on certain other personal property in said laundry premises.

Filed: Oct. 21, 1943. Roy H. Johnson, Clerk.

484 5. The undersigned will likewise cause to be advanced a sufficient sum of money to purchase the conditional sales contracts held by Huebsch Mfg. Co. and the Prosperity Company covering certain other personal property in the laundry premises and will cause the said conditional sales contracts to be conveyed and transferred to the said nominee hereinabove referred to.

6. Said nominee will thereupon enter into a contract with the Gold Medal Laundries, Inc., under the terms of which the said nominee will agree to sell and the Gold Medal Laundries, Inc., will agree to purchase the aforementioned real and personal property at a consideration equal to the total amount advanced by the undersigned hereunder plus not to exceed 10% per annum on the unpaid balance remaining unpaid from time to time by the Gold Medal Laundries, Inc., on account of said purchase price. Said contract shall provide that said purchase price shall be payable by the Gold Medal Laundries, Inc., as follows:

All of the net earnings of the Gold Medal Laundries, Inc., after the payment of operating expenses, shall be applied weekly on account of the said purchase price until the same shall be fully paid. The said net earnings shall be determined in accordance with good accounting practice.

Said contract shall further provide that upon payment in full of the said purchase price as therein provided, the said nominee, the seller thereunder, shall convey to the Gold Medal Laundries, Inc., all of the said real and personal property hereinabove referred to.

In Witness Whereof, the undersigned has hereunto set his hand and seal this 21st day of November, 1939.

Harry Koplin (Seal)

Subject to minor details regards to payments, etc.

Harry Koplin.

Filed: Oct. 21, 1943. Roy H. Johnson, Clerk.



TRUSTEE'S EXHIBIT 9.

Agreement

This agreement made and entered into this 6th day of March, 1940, by and between Harry Koplin, hereinafter referred to as "Koplin", Gold Medal Laundries Inc., an Illinois corporation, hereinafter referred to as "Laundry" and Arthur S. Kaplan, hereinafter referred to as "Ex-crowee".

Whereas the Laundry desires to obtain funds for the purchase of the title to certain real estate commonly known and described as 2621-31 West Chicago Avenue, Chicago, Illinois, and certain personal property encumbered by two chattel mortgages filed with the Recorder of Deeds of Cook County, Illinois, as Documents No. B926612 and 973597 respectively, and further desires to secure sufficient funds to satisfy certain outstanding indebtedness of the Laundry or against the personal property in the premises located at 2621-31 West Chicago Avenue, Chicago, Illinois; and

Whereas Koplin is willing to advance the necessary funds for the purchase of said real estate and personal property and the satisfaction of the aforesaid indebtedness, upon the terms and conditions hereinafter set forth;

Now, Therefore, in consideration of the mutual covenants and agreements hereinafter made, it is agreed as follows:

1. Koplin will cause a corporation (hereinafter referred to as proposed corporation) to be organized under the laws of the State of Illinois, to be known as the Laundry Building Corporation or any other appropriate name satisfactory to Koplin, with an authorized capital of Seventy Five Thousand Dollars (\$75,000.00), consisting of common shares of the par value of Ten Dollars (\$10.00) per share.

2. Koplin will cause the proposed corporation to issue to him shares aggregating in par amount the total of the funds to be advanced by Koplin in payment for said shares and to be used by the proposed corporation for the purposes hereinafter specified.

3. Koplin will pay for the shares to be issued to him by the proposed corporation an amount sufficient to enable the proposed corporation, and will cause the proposed corporation:

486 (a) To purchase of First United Finance Corporation all of its right, title and interest in the

real estate commonly known as 2621-31 West Chicago Avenue, Chicago, Illinois, and in the aforesaid chattel mortgages filed in the Recorder's Office of Cook County, Illinois, as Document No. B926612 and No. 973597 respectively, and the chattel mortgages notes secured thereby. Koplin will pay the sum required to effect said purchase from the First United Finance Corporation within such time or times as will enable the proposed corporation to meet the terms specified in the agreement to purchase with the First United Finance Corporation.

(b) To pay and satisfy the indebtedness due and owing to Huebsch Company, Prosperity Company and Zephyr Laundry Machinery Company, as evidenced by certain conditional sales contracts upon certain machinery equipment and personal property now located in the premises at 2621-31 West Chicago Avenue, Chicago, Illinois.

(c) To purchase of Maurice A. Ginsburg all of the right, title and interest of the said Maurice A. Ginsburg in all of the aforementioned property and all of the right, title and interest acquired by the said Maurice A. Ginsburg by purchasing in the United States District Court for the Northern District of Illinois, Eastern Division, all of the right, title and interest of the receiver in bankruptcy in and to the assets, real and personal, of Strand Family Laundry Co., a corporation, Bankrupt.

(d) To discharge and pay all of the delinquent real estate taxes levied and assessed against the real estate commonly known and described as 2621-31 West Chicago Avenue, including attorney's fees necessitated thereby.

(e) To pay any other legal obligation of the Laundry which Koplin in his discretion may approve for payment.

(f) To pay such state and federal taxes as the proposed corporation may incur.

(g) To pay any incidental cost or expense incurred in the organization of the proposed corporation; to pay any incidental cost or expense incurred in consummating any and all transactions set forth hereinabove.

487 Payments to be made by Koplin under sub-paragraphs (b), (d) and (e) hereof shall be made to the proposed corporation on or before one hundred twenty (120) days from the date hereof. Payment to be made by Koplin under sub-paragraph (c) hereof shall be made to the proposed corporation on or before March 20, 1940. As payments are made by Koplin to the proposed cor-

poration in accordance with the terms of this paragraph, the proposed corporation will issue to the order of Koplin shares in the par amount, equal to the amount of each payment respectively, and said shares, upon issuance, will be deposited with the Escrowee to be held by him as hereinafter provided. No additional shares shall be issued by the proposed corporation during the term of this agreement other than the shares to be issued to the order of Koplin as herein provided.

4. The Laundry will purchase from Koplin, and Koplin will sell to the Laundry, all of the shares in the proposed corporation issued to Koplin, as hereinabove provided, at a purchase price equivalent to the total amount of the payments made by Koplin to the proposed corporation for the stock issued to him as hereinabove provided. The said purchase price, together with interest thereon at the rate of eight per cent (8%) per annum from the respective dates of the payments made by Koplin to the proposed corporation shall be paid as follows:

(a) The Laundry will pay said purchase price in weekly installments as follows: One Hundred Dollars (\$100.00) per week for six (6) months and One Hundred Fifty Dollars (\$150.00) per week for the next ensuing six (6) months, and Two Hundred Dollars (\$200.00) per week thereafter, until the entire purchase price and interest thereon shall be fully paid. The weekly installments shall commence with a date one week after the consummation of the purchase by the proposed corporation of the right, title and interest of Maurice A. Ginsburg in and to the assets hereinabove described.

(b) In addition to the weekly installments provided in sub-paragraph (a) hereof, the laundry will on or before the 15th day of each month, commencing with the 15th day of March, 1940, pay to Koplin on account of said purchase price an amount equivalent to the amount 488 by which the net earnings of the Laundry for the preceding calendar month exceeds the total weekly payments made by the Laundry to Koplin during said calendar month.

The Laundry concurrently with each of said monthly payments shall deliver to Koplin a profit and loss statement of its operations for the preceding calendar month, certified by its accountant.

The net earnings of the Laundry for the purposes of

this agreement shall be determined by deducting from the gross earnings the following:

(1) All operating and maintenance expenses of the Laundry.

(2) Salaries of Sam H. Millman and Sam F. Millman, in an amount not to exceed the sum of Seventy Five Dollars (\$75.00) per week for each.

(3) Periodical payments to liquidate the following indebtednesses which the Laundry represents to be the respective amounts set forth:

S. I. Arnopelin	\$3,200.00
Abe Böhn	\$ 750.00
Sam Adams	\$1,300.00
Merchandise National Bank	\$2,144.16
Joe Karovsky	\$ 750.00
Arthur J. Goldberg	\$ 500.00
Robert J. Millman	\$ 800.00
Arthur S. Kaplan	\$ 500.00

5. Payments made by the Laundry to Koplin on account of the purchase price of said shares shall first be applied upon interest accruing up to the date of payment and the balance, if any, upon the principle of the purchase price.

6. Koplin shall have the right to make a reasonable examination of the books and records of the Laundry from time to time while any balance of the purchase price remains due hereunder.

7. All of the shares of the proposed corporation to be issued to Koplin under the terms of this agreement shall be endorsed in blank to Koplin, and shall be delivered to and held by the Escrowee hereunder subject to the terms and provisions hereinafter set forth. The Laundry concurrently with the first payment made by Koplin to the proposed corporation for and on account of the 489 shares to be issued to him, shall deposit with the Escrowee certificates for all of its issued shares.

endorsed in blank; one-third of the total shares shall be issued in the name of Harry Koplin or his nominee, and endorsed by him.

In the event Koplin makes all of the payments to the proposed corporation for the shares to be issued to him and for the purposes hereinabove specified within the time and in the manner hereinabove provided, then and in such event the Escrowee shall deliver to Koplin, his certificates of shares of the Laundry, representing one-third of the total issued shares deposited with the Escrowee, in accordance with the terms hereof.

In the event the Laundry shall fully pay to Koplin the purchase price for the shares of the proposed corporation issued to Koplin as herein provided, and interest thereon as herein provided in the manner and within the time above specified, then the Escrowee shall deliver to the Laundry the certificates for the issued shares of the proposed corporation, together with two-thirds of the issued shares of said Gold Medal Laundries deposited with the Escrowee, in accordance with the terms hereof.

In the event the Laundry shall default in the payment of any installment of the purchase price, or such charges and taxes as shall constitute rental payment as provided for hereinafter in paragraph eight (8) hereof, and such default shall not have been cured within sixty (60) days after service by registered mail of notice of such default upon the Laundry at 2621-31 West Chicago Avenue and Arthur J. Goldberg, 39 South La Salle Street, Chicago, Illinois, then Koplin may at his option, without further notice, declare this agreement to be null and void and thereupon the Escrowee shall redeliver the certificates evidencing shares of the proposed corporation together with the remaining certificates of shares of the Laundry deposited with the Escrowee hereunder to Koplin, and Koplin shall have the right to retain all installments of the purchase price theretofore received by him and the certificates of shares of the Laundry as his liquidated damages.

8. Koplin will cause the proposed corporation to lease and demise to the Laundry all of the real and personal property to be acquired by it as herein provided for a term concurrent with the life of this contract, and the Laundry shall pay to the proposed corporation as rent therefor the amount of the general and special



real estate taxes levied on the real estate and personal property tax levied on the personal property for the years 1940 and thereafter, and insurance premiums covering the usual risks upon the said property, both real and personal, as the same shall respectively mature, and in addition shall pay all costs and charges for maintaining the real and personal property in a good condition.

To facilitate the payment of the real and personal property taxes the Laundry shall deposit with the proposed corporation the sum of Thirty Dollars (\$30.00) per week, which deposits the proposed corporation shall keep as a special fund for the payment of said taxes. In the event such deposits shall be insufficient to pay the said taxes as they mature, the Laundry shall thereupon pay any difference necessary to make full payment.

9. Koplin will cause the proposed corporation to refrain from incurring any indebtedness of any kind, nature or description, other than state and federal taxes.

10. This agreement shall insure to and be binding upon the heirs, executors, administrators and assigns of the parties hereto.

In Witness Whereof the parties hereto have hereunto set their hands and seals the day and year as first above written.

Harry Koplin (Seal)

Harry Koplin

Gold Medal Laundries Inc.

By

President.

Attest

Secretary.

Arthur S. Kaplan (Seal)

Arthur S. Kaplan,

Escrowee.

Received of Sam H. Millman and Sidney Millman stock certificates #1 to #6, both inclusive, evidencing the aggregate total of 150 shares of Gold Medal Laundries, Inc., corporate stock, together with letter executed by Gold Medal Laundries, Inc., and Sam H. Millman and Sidney

Millman who own and control said shares in equal portions.

It is understood that the certificates on deposit shall be so transferred as to place in the name of Harry Koplin fifty (50) shares of said corporate stock.

This receipt is accepted in accord with the terms of an agreement between Harry Koplin and the Gold Medal Laundries, Inc., dated March 6, 1940.

Dated at Chicago, Illinois this 6th day of March, A. D. 1940.

Arthur S. Kaplan.

Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

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TRUSTEE'S EXHIBIT 11.

This Agreement made and entered into this 14th day of June, 1940, by and between Sam H. Millman, hereinafter referred to as party of the first part, and Joseph Feller, hereinafter referred to as party of the second part.

In consideration of the sum of One Dollar (\$1.00) to each/by the other in hand paid, receipt whereof is hereby acknowledged, and for other good and valuable considerations, the parties hereto do hereby agree as follows:

1. Sam H. Millman does hereby sell, assign and transfer unto Joseph Feller all of his interest in all of his shares of stock in Gold Medal Laundries Inc., evidenced by stock certificates numbered 1, 2 and 5, in the aggregate number of seventy-five shares, Nos. 1 and 2 issued in the name of S. I. Arnopolin, and share No. 5 issued in the name of R. Kordine, and all of said shares endorsed in blank subject to the terms and provisions of agreement dated March 6, 1940 between Harry Koplin, Gold Medal Laundries Inc. and Arthur S. Kaplan.

2. Joseph Feller agrees to pay for all of said shares the sum of Three Thousand Dollars (\$3,000.00), One Thousand Dollars (\$1,000.00) upon the execution of this agreement, and Two Thousand Dollars (\$2,000.00) at Twenty-five Dollars (\$25.00) per week on Monday of each week commencing with Monday, June 24, 1940. It is mutually agreed that said Two Thousand Dollars (\$2,000.00) shall be evidenced by an installment note to be executed by Joseph Feller and guaranteed by Harry Koplin.

3. It is understood that a portion of said shares of

stock has heretofore been assigned to Harry Koplin in said agreement of March 6, 1940, as more fully appears from said agreement.

493 5. Sam H. Millman does hereby warrant that he is the owner of the said shares of stock in his own right, subject only to the interest of Harry Koplin hereinabove referred to.

In Witness Whereof the parties have hereunto affixed their hands and seals the day and year first above written.

Joseph Feller (Seal)

*Party of the first part*

(Seal)

*Party of the second part.*

494

## TRUSTEE'S EXHIBIT 12.

June 14, 1940.

Received of Robert J. Millman one minute book and original recorded certificate of incorporation re Gold Medal Laundries Inc.

Signed Arthur S. Kaplan.  
Arthur S. Kaplan.

Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

495

## TRUSTEE'S EXHIBIT 13.

## Bill of Sale.

Know All Men By These Presents, That Maurice Klein, not individually, but as Receiver in Bankruptcy of Strand Family Laundry Co., a corporation, Bankrupt, in case No. 71297, pending in the District Court of the United States, for the Northern District of Illinois, Eastern Division, of the City of Chicago, County of Cook and State of Illinois, party of the first part, for and in consideration of the sum of Three Thousand Dollars (\$3,000.00), lawful money of the United States of America, to him in hand paid, at or before the ensembling and delivery of these Presents, by Mauricea Ginsburg and Max Heiman, parties of the second part, the receipt whereof is hereby acknowledged, and their Agreement to file with the Court wherein

the said bankruptcy is pending, written waivers and releases running in favor of the said estate of any claims asserted and filed by any persons for wages which accrued within three months prior to the filing of the aforesaid petition in bankruptcy, the said waivers and releases to be filed within ten (10) days after the filing of any wage claims, has granted, bargained, sold and delivered, and by these Presents does grant, bargain, sell and deliver, unto the said parties of the second part, all the following Goods, Chattels and Property, to-wit:

**All of the said Receiver's right, title and interest in and to any and all property of the Bankrupt, real, mixed and personal, pledged or unpledged, including trade names, good-will, customers' routes, customers' lists, and the right to use the name "Strand Family Laundry" but excluding cash and accounts receivable, all subject, however, to whatever liens, claims or encumbrances which are or may be asserted against any or all of the aforementioned property.**

To Have And To Hold the said Goods, Chattels and Property unto the said parties of the second part, their heirs, executors, administrators and assigns, to and 496 for their own proper use and behoof forever.

In Witness Whereof, I have hereunto set my hand and seal the \_\_\_\_\_ day of September, A. D. 1939.

(Seal)

*Maurice Klein, not individually but as Receiver in Bankruptcy of Strand Family Laundry Co., a corporation, Bankrupt, in case No. 71297 pending in the District Court of the United States, for the Northern District of Illinois, eastern Division.*

State of Illinois }  
County of Cook } ss.

I, \_\_\_\_\_, a Notary Public in and for said County, Do Hereby Certify that this Instrument was duly acknowledged before me by the above named Maurice Klein this \_\_\_\_\_ day of September, A. D. 1939.

*Notary Public.*

The undersigned Robert J. Millman does hereby certify that the above is a true and exact copy of original bill of sale.

Robert J. Millman.

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

497

# TRUSTEE'S EXHIBIT 14.

## POWER OF ATTORNEY.

Know All Men By These Presents, That I, Maurice A. Ginsburg, of Chicago, Illinois, do hereby appoint Edward A. Ginsburg of Chicago, Illinois, my attorney in fact for me and in my name, to execute any and all documents, bills of sale, deeds, etc. that may be necessary in order to effect the sale of my right, title and interest acquired by me by reason of having purchased the right, title and interest of the receiver in bankruptcy of Straub Family Laundry Co., a corporation, bankrupt.

M. A. Ginsburg.

State of Illinois }  
County of Cook } ss.

1 I, Robert J. Millman, a notary public of Cook County, Illinois, do hereby certify that Maurice A. Ginsburg has this day appeared before me and acknowledged that he executed the foregoing power of attorney as his free and voluntary act.

Given under my hand and notarial seal this 13 day of February, A. D. 1940.

(Seal)

Robert J. Millman,  
*Notary Public.*



498 Know All Men By These Presents, That Maurice A. Ginsburg, for and in consideration of the sum of Thirty Nine Hundred Dollars (\$3900.00) lawful money of the United States of America, to him in hand paid at or before the ensealing and delivery of these presents by Harry Koplin, receipt whereof is hereby acknowledged, has granted, bargained, sold and delivered unto Chicago Laundry Billing Co., a corporation, all of his right, title and interest in all of the property, real and personal which he may have acquired by reason of a certain bill of sale from Maurice Klein as receiver in bankruptcy of Strand Family Laundry Co., a corporation, Bankrupt, in case No. 71297, to Maurice A. Ginsburg and Max Heiman; to have and to hold the said goods, chattels and property unto the said Chicago Laundry Building Co., a corporation, its successors and assigns, to and for their own proper use forever.

In Witness Whereof he has hereunto set his hand and seal the 12th day of June, A. D. 1940.

Maurice A. Ginsburg (Seal)

By Edward A. Ginsburg

*Authorized agent by power of attorney.*

State of Illinois }  
County of Cook } ss.

I, Robert J. Millman, a notary public in and for said county, do hereby certify that this instrument was duly acknowledged before me by the above named Edward A. Ginsburg, this 12th day of June, A. D. 1940.

Robert J. Millman

(Seal)

*Notary Public.*

## 499 TRUSTEE'S EXHIBIT 1 AS OF 1/20/42.

Edward J. Hughes  
Secretary of State

State of Illinois  
Office of the Secretary of State  
Springfield

May 8, 1940

Kaplan & Rosenfield  
188 W. Randolph Street  
Chicago, Illinois

In Re: Laundry Building Corporation.

Gentlemen:

Articles of incorporation of the above, in duplicate, and check for \$74.17 are herewith returned.

The above name is not available for corporate purposes as the records of this office disclose a corporation of the same name.

The fee for incorporating during May, based upon an initial issuance of \$7,000 as shown under Article 6, is \$35.17. As all of the fees collected in this office are turned daily into the State Treasury, no refunds can be made and all remittances must be in the correct amounts.

Please note that the notary public has failed to date the jurat.

Very truly yours,

Edward J. Hughes  
Secretary of State.

Corporation Dept.  
RR:FG

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

## 500 TRUSTEE'S EXHIBIT 2. 1/20/42.

Incorporated Under the Laws of the State of  
Illinois  
(Cut)

Number 1

Shares —37—

Gold Medal Laundries, Inc.

Authorized Shares 150

Par Value \$20.00

This Certifies that S. I. Arnopolin is the owner of  
Thirty-Seven Common Shares of Gold Medal Laundries,

Inc. fully paid and non-assessable, transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereto affixed this 11th day of September A. D. 1939.

R. Kordine  
Secretary

S. I. Arnopolin  
President

Endorsed: Filed Oct. 21, 1943 Ray H. Johnson, Clerk.

501 For Value Received, hereby sell, assign and transfer unto

Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated 19

S. I. Arnopolin

In presence of

Notice. The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Certificate  
For  
—37—  
Shares  
Issued To  
S. I. Arnopolin  
Dated  
9-11-39

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

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Trustee's Exhibit No. 2-A as of 1/20/42.

502

TRUSTEE'S EXHIBIT 2-A. d/20/42.

Incorporated Under the Laws of the State of  
Illinois

Number 2

Shares —37—

(Cut)

Gold Medal Laundries, Inc.

Authorized Shares 150

Par Value \$20.00

This Certificate that S. I. Arnopolin is the owner of Thirty-Seven Common Shares of Gold Medal Laundries, Inc. fully paid and non-assessable, transferable only on the books of this Corporation in person or by Attorney upon surrender of this Corporation properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 11th day of September A. D. 1939.

R. Kordine

*Secretary*

S. I. Arnopolin

*President*

Endorsed: Filed Oct. 21, 1943. Ray H. Johnson, Clerk.

503 For Value Received, hereby sell, assign and transfer unto

Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated, 19

S. I. Arnopolin

In presence of

Notice: The signature of this assignment must correspond with the name as written upon the face of the cer-

tificate, in every particular, without alteration or enlargement, or any change whatever.

Certificate  
For  
—37—  
Shares  
Issued To  
S. I. Arnopolin  
Dated  
9-11-39

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

504 TRUSTEE'S EXHIBIT 2-B. 1/20/42.

Incorporated Under the Laws of the State of  
Illinois

(Cut)

Number 5

Shares —1—

Gold Medal Laundries, Inc.

Authorized Shares 150

Par Value \$20.00

This Certifies that R. Kordine is the owner of One Common Share of Gold Medal Laundries, Inc. fully paid and non-assessable, transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 11th day of September A. D. 1939.

R. Kordine

Secretary

S. I. Arnopolin

President

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

505. For Value Received, \_\_\_\_\_ hereby sell, assign and transfer unto \_\_\_\_\_

\_\_\_\_\_ Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint \_\_\_\_\_ Attorney to transfer the said Shares on the books of the within



named Corporation with full power of substitution in the premises.

Dated \_\_\_\_\_ 19\_\_\_\_

R. Kordine

In presence of \_\_\_\_\_

Notice. The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Certificate

For

—1—

Shares

Issued To

R. Kordine

Dated

9-11-39

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

/506

TRUSTEE'S EXHIBIT 2-C. 1/20/42.

Incorporated Under the Laws of the State of  
Illinois

(Cut)

Number 3

Shares —37—

Gold Medal Laundries, Inc.

Authorized Shares 150

Par Value \$20.00

This Certificate that S. I. Arnopolin is the owner of Thirty Seven Common Shares of Gold Medal Laundries, Inc. fully paid and non-assessable, transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed:

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 11th day of September A. D. 1939.

R. Kordine

Secretary

S. I. Arnopolin

President

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

507 For Value Received, \_\_\_\_\_ hereby sell, assign and transfer unto \_\_\_\_\_

Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint \_\_\_\_\_ Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated \_\_\_\_\_ 19 \_\_\_\_\_

S. I. Arnopolin

In presence of \_\_\_\_\_

Notice. The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Certificate

For

—37—

Shares

Issued To

S. I. Arnopolin

Dated

9-11-39

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

508 TRUSTEE'S EXHIBIT 2-D. 1/20/42

Incorporated Under the Laws of the State of Illinois

(Cut)

Number 4

Shares —37—

Gold Medal Laundries, Inc.

Authorized Shares 150

Par Value \$20.00

This Certifies that S. I. Arnopolin is the owner of Thirty-Seven Common Shares of Gold Medal Laundries, Inc. fully paid and non-assessable, transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 11th day of September A.D. 1939.

R. Kordine

*Secretary*

S. I. Arnopolin

*President*

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

509 For Value Received, \_\_\_\_\_ hereby sell, assign, and transfer unto \_\_\_\_\_

\_\_\_\_\_ Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint \_\_\_\_\_ Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated \_\_\_\_\_ 19\_\_\_\_

S. I. Arnopolin.

In presence of \_\_\_\_\_

Notice: The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement, or any change whatever.

Certificate

For

—37—

Shares

Issued To

S. I. Arnopolin

Dated

9-11-39

Endorsed: Filed Oct. 21, 1943. Roy H. Johnson, Clerk.

510 TRUSTEE'S EXHIBIT 2-E. 1/20/42.

Incorporated Under the Laws of the State of  
Illinois

(Cut)

Number 6

Shares —1—

Gold Medal Laundries, Inc.

Authorized Shares 150

Par Value \$20.00

This Certifies that Sam Kostman is the owner of One Common Shares of Gold Medal Laundries, Inc. fully paid and non-assessable, transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 11th day of September A. D. 1939.

R. Kordine

S. I. Arnopolin

Secretary

President

Endorsed: Filed Oct. 21, 1943. Rop H. Johnson, Clerk.

511 For Value Received, hereby sell, assign and transfer unto

Shares represented by the within Certificate, and do hereby irrevocably constitute and appoint Attorney to transfer the said Shares on the books of the within named Corporation with full power of substitution in the premises.

Dated 19

Sam Kostman

In presence of

Notice. The signature of this assignment must correspond with the name as written upon the face of the cer-

tificate, in every particular, without alteration or enlargement, or any change whatever.

Certificate  
For  
—1—  
Shares  
Issued To  
Sam Kostman  
Dated  
9-11-39

Endorsed: Filed Oct. 21, 1943: Roy H. Johnson, Clerk.

512 TRUSTEE'S EXHIBIT NO. 3. 1/20/42.

### Agreement.

This Memorandum Witnesseth: That Arthur S. Kaplan, as agent for Laundry Building Corporation, a proposed corporation to be organized under the laws of the State of Illinois, does hereby agree to purchase at the price of Twenty One Thousand Dollars (\$21,000.00), the following chattel mortgages and notes secured thereby, and conditional sales contracts, executed by Strand Family Laundry Company:

Chattel mortgage executed April 16, 1937, securing note in amount of \$17,350.00, and filed in Recorder's Office at Cook County, Illinois, as Document No. B926612;

Chattel Mortgage dated December 23, 1937, securing chattel mortgage note for \$5,026.00, and filed in Recorder's Office at Cook County, Illinois, as Document No. B973597;

Chattel Mortgage dated November 29, 1938, securing chattel mortgage note for \$3,420.73, and filed in Recorder's Office at Cook County, Illinois, as Document No. B1047266;

Three (3) Conditional sales contracts dated October 6, 1938 for \$809.00;

and the following described real estate:

Lots 6, 7, 8, 9 and 10 in the Resubdivision of Block 3 (Except the East 67 feet thereof) in Wright and Webster's Subdivision of the North East quarter of Section 12, Township 39 North, Range 13, East of the 3rd P. M., in Cook County, Illinois, also known as 2621-31 West Chicago Avenue, Chicago, Illinois;

and, First United Finance Corporation, an Illinois cor-



poration, agrees to sell said chattel mortgages and notes secured thereby, and conditional sales contracts, and said real estate at the said price, and to convey or cause to be conveyed on or before September 7, 1942 to buyer good title by its bill of sale, assignment and quitclaim deed, subject only to:

(1) Existing tenancy of Gold Medal Laundries, Inc.;  
(2) All general taxes and special assessments remaining unpaid of record;

(3) Proceedings pending in the County Court of Cook County, Illinois, as Case #90656 for the appointment of a Receiver to collect general unpaid taxes;

(4) Usual stock objections.

513 Buyer has paid Nine Thousand Dollars (\$9,000.00) as earnest money to be applied on said purchase price and agrees to pay the balance of Twelve Thousand Dollars (\$12,000.00) in the following manner:

\$2,000.00 on or before April 7, 1940, \$2,000.00 on or before May 7, 1940, \$2,000.00 on or before June 7, 1940, \$1500.00 on or before July 7, 1940 and \$4500.00 on or before September 7, 1942, together with interest thereon at the rate of 5% per annum, from date hereof, payable on the 7th day of each month on the balance remaining from time to time unpaid.

Provided, however, that the final payment of \$4500.00 may mature immediately at the option of the seller upon its presenting to the Buyer the Chicago Title & Trust Company letter of opinion showing title to the above described real estate, to be free and clear of a lien arising out of notice filed by Carter H. Harrison, Collector of Internal Revenue for the First District of Illinois; of a tax lien in the sum of \$4,058.82, which lien is dated June 15, 1939 and recorded June 19, 1939 as Document No. 12328511 against Strand Family Laundry Company, which mentions premises known as 2621 W. Chicago Avenue, Chicago, Illinois; and the Buyer agrees to pay the said sum of \$4500.00 on or before fifteen (15) days after date of receipt of such demand, provided, however, that such demand shall in no event be made prior to October 7, 1940, and provided further that such demand be in the form of a written notice by registered mail addressed to Arthur S. Kaplan, 188 West Randolph Street, Chicago, Illinois.

Upon final payment the Seller agrees to deliver to the Buyer or his nominee its Quit Claim Deed covering the

above described real estate and its Bill of Sale and Assignment covering the afore-described chattel mortgages and conditional sales contracts, together with such other necessary affidavits of title and certified corporate resolutions as may be necessary, and together with Chicago Title & Trust Company Guaranty Policy covering the said premises, in an amount equal to at least the purchase price herein provided for and subject to the usual objections and the objections hereinabove noted.

514 In the event any objection appears against the said premises that may not be cured or waived at the time of the final payment, the Buyer, at his option, may accept title subject to such objection and deduct from the purchase price an amount sufficient to cause the waiver of such objection. The seller further agrees to assign and deliver to the Buyer all insurance policies in its possession covering the subject chattel mortgages, real estate and conditional sales contracts.

It is further specifically understood and agreed by and between the parties hereto that time is of the essence of this agreement, and that in the event the Buyer shall be in default in the payment of any of the installments herein provided to be paid, and such default not be cured within fifteen (15) days after written notice by registered mail to Arthur S. Kaplan, 188 West Randolph Street, Chicago, Illinois, then, and in such event, the Seller shall retain any and all sums theretofore paid as for liquidated damages and not as a penalty and this contract shall thereupon be terminated and of no further force and effect.

This contract shall inure to the benefit of the administrators, executors or assigns of the parties hereto.

In Witness Whereof, Purchaser has hereunto set his hand and seal and the Seller has caused these presents to be executed by its Vice-President and its Corporate Seal affixed and attested to by its Secretary this 7th day of March, A. D. 1940.

Arthur S. Kaplan, (Seal)  
As Agent for Laundry Building  
Corporation, a proposed Illi-  
nois Corporation.

First United Finance Corporation,  
By: R. W. Frieder,

Attest:

Its Vice-President.

L. C. Friedlander,  
Secretary.

515 TRUSTEE'S EXHIBIT NO. 4: 1/20/42.

Book 1285 Page 542

Certificate Number 25948

STATE OF ILLINOIS.

office of

The Secretary of State

(Cut)

To all to whom these Presents Shall Come, Greeting:

Whereas, Article of Incorporation duly signed and verified of Chicago Laundry Building Co. have been filed in the Office of the Secretary of State on the 10th day of May, A. D. 1940, as provided by "The Business Corporation Act" of Illinois, in force July 13, A. D. 1933.

Now Therefore, I, Edward J. Hughes, Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this certificate of incorporation and attach thereto a copy of the Articles of Incorporation of the aforesaid corporation.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, Done at the City of Springfield this 10th day of May, A. D. 1940, and of the Independence of the United States the one hundred and 64th.

Edward J. Hughes,

Secretary of State.

(Seal)

516

Book 1285 Page 543

Form B

Before Attempting to Execute These Blanks be Sure to Read Carefully the Instructions on the Back Thereof.

(These Articles Must be Filed in Duplicate.)

Paid

May 10, 1940

F. F. \$ 3.50

F. T. \$ 1.67

F. F. \$20—

R

State of Illinois, }  
Cook County. } ss.

To Edward J. Hughes; Secretary of State:

We, the undersigned,

Name	Number	Street	Address City	State
Arthur S. Kaplan	188	West Randolph Street	Chicago	Illinois
Ben Rosenfield	188	West Randolph Street	Chicago	Illinois
Harry Director	188	West Randolph Street	Chicago	Illinois

being natural persons of the age of twenty-one years or more and subscribers to the shares of the corporation to be organized pursuant hereto, for the purpose of forming a corporation under "The Business Corporation Act" of the State of Illinois, do hereby adopt the following Articles of Incorporation:

#### Article One

The name of the corporation is: Chicago Laundry Building Co.

#### Article Two

The address of its initial registered office in the State of Illinois is: 188 West Randolph Street, in the City of Chicago, County of Cook and the name of its initial Registered Agent at said address is: Arthur S. Kaplan.

#### Article Three

The duration of the corporation is: perpetual.

517

#### Article Four

The purpose or purposes for which the corporation is organized are: To acquire, own, use, convey and otherwise dispose of and deal in real property or interest therein; to construct, erect, remodel, alter, repair and improve, to own, hold, use and maintain and to sell, convey, lease, mortgage or otherwise dispose of buildings, structures or improvements thereon or any interest or property thereon; to operate, manage, supervise and maintain any such prop-

erties; to furnish, equip, improve, maintain and lease to others offices, rooms, suites, apartments and space in any buildings or properties of the corporation; to engage in, conduct, and contract with others to engage in and conduct on such premises business enterprises, activities and concessions of all kinds, to engage in and carry on the business of a real estate agent or broker for itself and others.

518

## Article Five

Paragraph 1: The aggregate number of shares which the corporation is authorized to issue is 15,000, divided into one class. The designation of each class, the number of shares of each class; and the par value, if any, of the shares of each class, or a statement that the shares of any class are without par value, are as follows:

Class	Series (If any)	Number of Shares	Par value per share or statement that shares are without par value
Common	None	15,000	\$5.00

Paragraph 2: The preferences, qualifications, limitations, restrictions and the special or relative rights in respect of the shares of each class are:

None.

## Article Six

The class and number of shares to be issued by the corporation before it shall commence business and the consideration (expressed in dollars) to be received by the corporation therefor are:

Class of shares	Number of shares	Consideration to be received therefor,
Common	1400	\$7000.00

## Article Seven

The number of directors to be elected at the first meeting of the shareholders is: Three.



519

## Article Eight.

Paragraph 1: It is estimated that the value of all property to be owned by the corporation for the following year, wherever located will be \$7,000.00.

Paragraph 2: It is estimated that the value of the property to be located within the State of Illinois during the following year will be \$7,000.00.

Paragraph 3: It is estimated that the gross amount of business which will be transacted by the corporation during the following year will be \$1,000.00.

Paragraph 4: It is estimated that the gross amount of business which will be transacted at or from places of business in the State of Illinois during the following year will be \$1,000.00.

Arthur S. Kaplan,  
Ben Rosenfield,  
Harry J. Director,  
*Incorporators.*

## Gath and Acknowledgment.

State of Illinois, }  
Cook County. } ss.

I, Ben H. Kessler, a Notary Public do hereby certify that on the 29th day of February, 1940, Arthur S. Kaplan, Ben Rosenfield, and Harry Director personally appeared before me and being first duly sworn by me severally acknowledged that they signed the foregoing document in the respective capacities therein set forth and declared that the statements therein contained are true.

In Witness Whereof, I have hereunto set my hand and seal the day and year above written.

(Seal)

Ben H. Kessler,  
Notary Public.

## Form B

Box..... File.....

Articles of Incorporation  
of

## Chicago Laundry Building Co.

The following fees are required to be paid at date of issuing certificate of incorporation: Initial licensee fee of 50c per \$1000.00; filing fee \$20.00; franchise tax of 1/20 of 1% of the amount of stated capital and paid-in surplus which the corporation is to receive for the shares issued before it commences business, provided for the issue of \$20,000.00 or less the minimum franchise tax is as follows: January, \$15; February, \$14.17; March, \$13.34; April, \$12.50; May, \$11.67; June, \$10.84; July, \$10.00; Aug., \$9.17; Sept., \$8.34; Oct., \$7.50; Nov., \$6.67; Dec., \$5.84.

In excess of \$20,000.00 the franchise tax per \$1000.00 is as follows: Jan., \$0.75; Feb., .709; March, .667; April, .625; May, .584; June, .542; July, .50; Aug., .4583; Sept., .4167; Oct., .3749; Nov., .3333; Dec., .2916.

All stock issued in excess of the amount represented in the Articles of Incorporation to be issued by the Corporation before it shall commence business must be reported within 60 days from date of issuance thereof and franchise tax and initial license fee paid thereon; otherwise, the corporation is subject to a penalty of 1% for each month on the amount until reported and subject to a fine not to exceed \$500.00.

The same fees are required for a subsequent issue of stock except the filing fee is \$1.00 instead of \$20.00.

Endorsed: Filed May 10, 1940, Edward J. Hughes,  
Secy. of State.

520

## Notice to Corporations.

Every incorporated company, other than banking, building and loan, and insurance companies, religious corporations and corporations organized not for pecuniary profit are required to make and file in the office of the Secretary of State in February of each year an annual report and severe penalties are inflicted for failure to do so.

Corporations are also required to file all amendments to their articles of incorporation.

The certificate of incorporation and all amendments thereto must be recorded in the office of the County Recorder of the County in which the business office of the corporation is located within fifteen days from the issuance thereof.

521 Endorsed: Articles of Incorporation of Chicago Laundry Bldg. Co. 12481079 State of Illinois Cook County ss. No. Filed for Record 1940 May 13 PM 12:58 1285 and Recorded in Book Page 542 Edward J. Kindl, Recorder. State of Illinois, Office of the Secretary of State.

522

TRUSTEE'S EXHIBIT 5. 1/20/42.

Certificate Number 9163

State of Illinois

Office of the Secretary of State

To all to whom these Presents Shall Come, Greeting:

Whereas, Articles of amendment to the Articles of Incorporation duly signed and verified of Unique Launderers, Inc. have been filed in the Office of the Secretary of State on the 16th day of January, A. D. 1941, as provided by "The Business Corporation Act" of Illinois, in force July 13, A. D. 1933.

Now Therefore, I, Edward J. Hughes, Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this certificate of amendment and attach thereto a copy of the Articles of Amendment to the Articles of Incorporation of the aforesaid corporation.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, /

Done at the City of Springfield this 16th day of January, A. D. 1941 and of the Independence of the United States the one hundred and 65th.

(Seal)

Edward J. Hughes,  
Secretary of State.

523

Articles of Amendment  
to the  
Articles of Incorporation  
of  
Unique Launderers, Inc.

To Edward J. Hughes  
Secretary of State  
Springfield, Illinois

The undersigned corporation, for the purpose of amending its Articles of Incorporation and pursuant to the provisions of Section 55 of "The Business Corporation Act" of the State of Illinois, hereby executes the following Articles of Amendment:

Article First: The name of the corporation is Unique Launderers, Inc.

Article Second: The following amendment or amendments were adopted in the manner prescribed by "The Business Corporation Act" of the State of Illinois:

That the corporate name of this Corporation be changed from "Unique Launderers, Inc." to "Budget Launderers, Inc."

524 (Disregard separation into classes if class voting does not apply to the amendment voted on.)

Article Third: The number of shares of the corporation outstanding at the time of the adoption of said amendment or amendments was 10,000; and the number of shares of each class entitled to vote as a class on the adoption of said amendment or amendments, and the designation of each such class were as follows:

Class	Number of Shares
Common	10,000

(Disregard separation into classes if class voting does not apply to the amendment voted on.)

Article Fourth: The number of shares voted for said amendment or amendments was 10,000; and the number of shares voted against said amendment or amendments was none. The number of shares of each class entitled to vote

as a class voted for and against said amendment or amendments, respectively, was: 10,000

Class.	Number of Shares Voted
Common	For                      Against
	10,000                      none

525 (Disregard this Article where the amendments contain no such provisions.)

Article Fifth: The manner in which the exchange, reclassification, or cancellation of issued shares, or the reduction of the number of authorized shares of any class below the number of issued shares of that class, provided for said amendment or amendments, shall be effected, is as follows:

(Disregard this Paragraph where amendments do not affect stated capital or paid-in surplus.)

Article Sixth: Paragraph 1: The manner in which said amendment or amendments effecting a change in the amount of stated capital or the amount of paid-in surplus, or both, is effected is as follows:

(Disregard this Paragraph where amendments do not affect stated capital and paid-in surplus.)

Paragraph 2: The amounts of stated capital and of paid-in surplus as changed by said amendment or amendments are as follows:

	Before Amendment	After Amendment
Stated capital . . . .	\$	\$
Paid-in surplus . . .	\$	\$

526 In Witness Whereof, the undersigned corporation has caused these Articles of Amendment to be executed in its name by its Vice President, and its corporate seal to be hereto affixed, attested by its Secretary, this 13th day of January, 1941.

Unique Launderers, Inc.

By M. P. Friedman,

*Its Vice President.*

(Corporate Seal)

Attest:

Arthur S. Kaplan,  
*Its Secretary.*



State of Illinois }  
County of Cook } ss.

I, John J. Dobry, a Notary Public, do hereby certify that on the 13th day of January, 1941, M. P. Friedman personally appeared before me and, being first duly sworn by me, acknowledged that he signed the foregoing document in the capacity therein set forth and declared that the statements therein contained are true.

In Witness Whereof, I have hereunto set my hand and seal the day and year before written.

John J. Dobry,  
Notary Public.

(Seal)

Endorsed: Box 2662 File 211580 Articles of Amendment to the Articles of Incorporation of Unique Launderers, Inc., changed to Budget Launderers, Inc. Filed Jan. 16, 1941, Edward J. Hughes, Sec'y. of State. Filing Fee \$20.00.

527

### Notice to Corporations.

Every incorporated company, other than banking, building and loan, and insurance companies, religious corporations and corporations organized not for pecuniary profit are required to make and file in the office of the Secretary of State in February of each year an annual report and severe penalties are inflicted for failure to do so.

Corporations are also required to file all amendments to their articles of incorporation.

The certificate of incorporation and all amendments thereto must be recorded in the office of the County Recorder of the County in which the business office of the corporation is located within fifteen days from the issuance thereof.

528 Endorsed: Articles of Amendment to the articles of Incorporation of

12615205 State of Illinois Cook County ss. No. Filed for Record 1941 Jan 29 AM 11 58 1325 and Recorded in Book Page 134. Edward J. Kindl, Recorder. State of Illinois Office of the Secretary of State.

529 TRUSTEE'S EXHIBIT NO. 6. 1/20/42.

**Agreement.**

This Agreement entered into this 2nd day of August, 1940 by and between Chicago Laundry Building Company, an Illinois corporation, with its principal office at Chicago, Illinois (hereinafter referred to as "first party"), and Sam F. Millman of the City of Chicago, County of Cook, and State of Illinois, (hereinafter referred to as "second party").

**Witnesseth:**

Whereas, the first party is now and has been since July 1, 1940 in possession and operation of the laundry plant located at 2621-31 West Chicago Avenue, Chicago, Illinois; and

Whereas, the said laundry plant has been prior to July 1, 1940 operated by the Gold Medal Laundries, Inc., an Illinois corporation, and prior to that by the Strand Family Laundry Co., an Illinois corporation; and

Whereas, the second party has through various capacities been closely associated with the said Gold Medal Laundries, Inc., and Strand Family Laundry and through such association has become thoroughly acquainted with the various routes and customers constituting the good will of the said laundry plant; and

Whereas, the first party is hereby desirous of maintaining and retaining all of the present good will and routes heretofore used under a lease Agreement by the Gold Medal Laundries, Inc., without damage or interference to operate by the said second party;

Now Therefore for and in consideration of the mutual promises hereinafter made, it is agreed as follows:

1. Second party agrees not to engage directly or indirectly in the laundry business in the territory within a radius of one mile of and from the said laundry plant located at 2621-31 West Chicago Avenue, Chicago, Illinois, for a period of five years next ensuing the date hereof.

2. The second party agrees that he will not while in the employ of the first party or during the five years immediately after the termination of the employment herein provide for:

(a) divulge or make known either directly or indirectly to any person, firm or corporation the names and addresses of the customers, patrons or agents of the first party;

(b) call upon, solicit, divert or take away or attempt to solicit, divert, or take away any of the customers or patrons of the first party which shall constitute any part of the good will and routes of the said first party as presently constituted;

(c) accept any laundry business or serve in any manner or form solicited or unsolicited any customer or patron of the first party which shall constitute part of the good will and routes of the first party at any time during said five years.

3. The first party does hereby agree to pay as consideration for the premises herein made by the second party in Paragraphs 1 and 2 hereinabove, the sum of Three (\$3,000.00) Thousand Dollars in the following manner:

(a) One Thousand (\$1,000.00) Dollars upon execution hereof.

(b) Twenty-Five Hundred (\$2500.00) Dollars by the promissory installment note of the first party, providing for monthly payments of One Hundred (\$100.00) Dollars each commencing with the 10 day of September, 1940, which promissory note shall be endorsed by Harry Koplin and the first party further agrees to cause the said note to be discounted at a banking institution at the usual and customary rate.

(c) Fifteen Hundred (\$1500.00) Dollars in weekly installments of Twenty-Five (\$25.00) Dollars each week commencing with the 3 day of August, 1940, Provided, However, that in the event of any violation or breach of the provisions, covenants and agreements of Paragraphs 1 and 2 hereof by the second party, the first party may at its option and without notice consider the provisions of this sub-paragraph (c) of paragraph 3 null and void and any balance remaining unpaid shall be considered liquidated damages for the breach, provided that this election shall not be construed to affect any right of the first party to proceed in a court of equity for the purpose of restraining further breaches or violations.

4. This contract shall enure to the benefit of the heirs, representatives, and assigns of either party hereto.

In Witness Whereof, the second party has set his hand

and seal the day and year first above written and the first party has caused these Presents to be executed by its president and attested to by its treasurer on the day and year first above written.

Chicago Laundry Building Company,  
a Corporation,

*First party.*

By: Arthur S. Kaplan,

*President.*

Sam F. Millman,

*Second Party.*

Attest:

Jos. J. Feller,  
*Secretary.*

Endorsed: Filed Oct. 21, 1943, Roy H. Johnson, Clerk.

532

## RESPONDENT'S EXHIBIT NO. 1.

IN THE DISTRICT COURT OF THE UNITED STATES,

For the Northern District of Illinois;

Eastern Division.

In the Matter of

Strand Family Laundry Co.,  
a corporation,

Bankrupt.

In Bankruptcy  
No. 71297.

To the Honorable Judges of Said Court:

Now comes Maurice Klein and respectfully represents that he was on the 15th day of August, A. D. 1939 appointed Receiver herein; that he has duly qualified as such Receiver by filing his bond herein as required.

Your Receiver further represents that he has caused an inventory to be taken of assets coming into his possession consisting of laundry equipment and machinery and automobile trucks and real estate, located at 2631 W. Chicago Ave., Chicago, Illinois, all as more fully shown on the inventory hereto attached and made a part hereof.

(signed) Maurice Klein,

*Receiver.*

State of Illinois }  
 County of Cook } ss.

Maurice Klein, Receiver as aforesaid, being first duly sworn on oath says that he has read the foregoing by him subscribed and that the same is true; that the attached is a true list of assets coming into his possession.

(signed) Maurice Klein.

Subscribed and sworn to before me this 25th day of August, A. D. 1939.

(signed) Ruth Gaberman,  
*Notary Public.*

(Seal)

533

Receiver's Inventory  
 of

Strand Family Laundry, Bankrupt  
 2621-31 W. Chicago Avenue, Chicago

Maurice Klein, Receiver

Clear Property

Quantity

Article

- 1 Prosperity three head press #840SP10-63797
- 1 Prosperity Boston Press #140P-404-48539
- 1 American Body Press #61M-12730
- 2 Prosperity Sleeveless
- 1 Prosperity Ladies Clothes Press #LCP51-31341
- 2 Heubsch Sleeveless

In Bundle Office

- 1 8" electric fan
- 1 small electric exhaust fan

In Washroom

- 1 Welco 3 pocket washer
- 1 Marquette 10 pocket washer

In Curtain Department

- 1 curtain fluting machine
- nine feet of steel shelving



Quantity	Article
	Mangle Department
2	Mangle back carriers with small electric motors
1	Cincinnati time clock
2	gum paper tape machines
1	paper cutter
	Finish Department
10	electric hand irons
	Shirt Marking Dept.
1	National shirt marking machine
	Shirt Dept.
1	electric exhaust fan
534	Engine Room
1	air compressor unit with motor
1	Heubach handkerchief ironer
1	Heubach Tumbler #8208
	Office
1	mimeograph #41480
1	Graphotype plate stencil machine
2	swivel chairs
1	arm chair
2	desk lamps
2	card-index files
1	roll away top desk, office 4
1	roll away top desk, stencil room
4	fire extinguishers, throughout building
	Chattel Mortgage Property
	First United Finance Corp., 9 W. Washington St., Chicago. Balance \$18,509.00
1	Skinner Steam engine #10607-532881 9 K.W.
1	Crocker Wheeler Generator #534923-125 K V A
1	Chicago Mfg. Co. Switchboard & appliances appurtenances thereto
1	voltage regulator #446999
2	Permutite water softeners
1	Heubach hot water heater
1	Troy Ldry. Machinery Co. wood washer 42x94, 10 compartments. #36972

Quantity	Article
1	American Ldry. Mch. Co. washer 44x108, 12 compartments serial #a-12271-15 151-152
1	Troy Ldry. machinery washer 42x96, 8 compartments
1	Troy overall washer 36x48, 1 compartment
1	small extractor 36 inch
1	Triple head prosperity press #1305
1	Triple head prosperity press #7305
1	Triple head prosperity press #7605
1	Prosperity body press #795-55-324
1	Prosperity body press #795-55-324
535 1	Prosperity Combination bosom & body press #42248644
3	Prosperity sleeves
4	sorting tables
1	large Toledo scale
1	small Toledo scale
	bins for bundles
1	35 H.P. electric motor
1	15 H.P. electric motor
1	Pony overall washer
3	shaking tables
2	sewing machines
2	racks for office bundles
1	hose form
5	ironing boards
5	galvanized bundle trucks
12	large inside bundle trucks
1	trap
1	Fairbanks & Morse horizontal Duplex boiler feed pump
1	rack for bundles in office
1	National cash register
6	desks
12	chairs
1	large assembly rack & table for finished work
3	sleevers
1	Addressograph machine (out for repairs)
3	driver's desks
3	cabinets (customers lists & addresses)
1	large Mosler safe

Quantity	Article
1	small Mosler safe
1	Sunstrand adding machine
1	Dalton Adding machine (in place of 2 Burroughs which were traded in)
1	check protector.
40	lockers
1	typewriter
536.1	neon widow sign
1	gasoline tank (underground)
1	Nuway boiler
1	Freeman coal stoker
1	Lot shafting, hangers, countershafting, pullies, belting, switch controls, wiring, water pipe valve, steam piping motors, laundry pin sets, platform trucks, laundry baskets and a lot of misc. equipment
1	Troy wash machine 5 compartments 36x96
1	Crocker Wheeler Exciter 9 K W. #533881
1	Whitlock Coil pre-heater
	customer routes building
Route 2	Chev. 1935 1/2 ton, Motor No. K4806927
Route 3	Ford V 8, 1934 1/2 ton, Motor No. FEV201205
Route 5	Chev. 1933 1/2 ton, Motor No. K3424552
Route 6	Ford 1931 1/2 ton, Motor No. A4168019
Route 12	Chev. 1934 1/2 ton, Motor No. K3997110
Route 14	Dodge 1934 1 ton, Motor No. BT6-13147
Route 18	Chev. 1933 1/2 ton, Motor No. K3468966
Route 20	Chev. 1935 1/2 ton, Motor No. K4799570
Route 43	Ford 1930 1 ton, Motor No. A3161622
Route 56	Chev. 1933 1/2 ton, Motor No. 3562302
Route 58	Chev. 1933 1/2 ton, Motor No. K3739215
Route 62	Chev. 1930 1/2 ton, Motor No. 2361876
Extra	Ford 1930 1/2 ton, Motor No. A4014490
Extra	Chev. 1932 1/2 ton, Motor No. K3393308
Route 19	Dodge 1934 1 ton, Motor No. T6-7026
Sound Truck	Chev. 1933 1/2 ton, Motor No. K3382522
	(no tires on wheels)
	(above claimed on chattel mortgage property held by First United Finance Corp., 9 W. Washington St.)

## Quantity

## Article

537 On Conditional Sale Contract  
G. M. A. C., 180 N. Michigan Ave., Balance due  
\$1680.00

Route 1 Chev. 1933  $\frac{1}{2}$  ton, Motor No. K3861110  
Route 4 Chev. 1934  $\frac{1}{2}$  ton, Motor No. K4093083  
Route 8 Chev. 1937  $\frac{1}{2}$  ton, Motor No. K200766  
Route 9 Dodge 1937  $\frac{1}{2}$  ton, Motor No. T38-16371  
Route 15 Chev. 1935  $\frac{1}{2}$  ton, Motor No. K5227688  
Route 41 Dodge 1936  $\frac{1}{2}$  ton, Motor No. T23-27751  
Route 52 Chev. 1936  $\frac{1}{2}$  ton, Motor No. K567576  
Route 46 Chev. 1935  $\frac{1}{2}$  ton, Motor No. K4093055  
Route 66 Chev. 1935  $\frac{1}{2}$  ton, Motor No. K4503096  
Route D9 Chev. 1933  $\frac{1}{2}$  ton, Motor No. K3869397

## Conditional Sales Contract

Route 56 Dodge 1936  $\frac{1}{2}$  Ton, Motor No. T23-50527 (Auto  
Brokerage Acceptance Corp., 1647 S. Crawford  
Ave., Balance Due \$100.00

## Conditional Sales Contract

Heubsch Mfg. Co., Milwaukee, Wisconsin, Bal.  
Due approx. \$1350.00

1 Heubsch Tumbler #12313  
1 Heubsch Tumbler #12314  
1 Heubsch Tumbler #12315

## Conditional Sales Contract

G. A. Braun, 612 N. Michigan Ave., Bal. Due  
Approx. \$2000.00

1 #540S-69030 Prosperity Press  
1 #625S-71406 Prosperity Press  
1 #625S-69268 Prosperity Press  
1 454SR-70755 Prosperity Press  
1 454SR-67589 Prosperity Press  
1 454SR-70997 Prosperity Press  
4 Heubsch Collar form

## Conditional Sales Contract

United Laundry Machine Co., New York, N. Y.  
Bal. Approx. \$875.00

1 United Laundry Starcher Machine #C145

## Quantity

## Article.

538

## Conditional Sales Contract

Ace Belting Co., Bal. due approx. \$100.00

1 American Woman's Apparel press #96632-1012

1 American Woman's Apparel press #96632-1014

## Conditional Sales Contract

Zephyr Laundry Machine Co., 3041 N. Rockwell

St. Approx. Bal Due \$21,200.00

2 60" Zephyr M. D. Extractors

1 6 roll American M. D. ironer

1 6 roll Troy M. D. ironer

2 36x30 Huebsch 4 coil tumblers

1 Zephyr 54x120 curaint unit

1 44x94 3 pocket 3 door Troy B. D. washer

1 44x48 1 pocket 1 door Troy B. D. washer

1 44x108 cylinder 3 pocket 3 door covered ribs with shell doors #1108

1 36x94 cylinder 3 pocket 3 door &amp; parts Inv. 1143

1 43x108 cylinder 3 pocket 3 door &amp; shells Inv. 1369

3 48 x 126 Zephyr B. D. Monel Trim 3 P 3 D washers

3 2 1/2 x 3 Huebsch valves complete Inv. #1409-1466-1481

1 36x36 Shell Inv. 1423

1 44x62 American R. D. Washer Inv. #1400

1 44x96 Shell Inv. 1486

1 44x48 cylinder 1PID &amp; shell Inv. #1490

1 44x62 Shell &amp; doors

## Real Estate

Lot 6 to 10, inclusive, in Resubdivision of Block 3 (except the East 67 feet thereof) in Writ & Webster's Subdivision of the NE 1/4 of Section 12, Township 39 North, Range 13, East of the Third Principal Meridian, In Cook County, Illinois.

539 IN THE DISTRICT COURT OF THE UNITED STATES  
OF AMERICA

For the Northern District of Illinois,

Eastern Division.

I, Wallace Streeter, Referee in Bankruptcy for the County of Cook in said Northern District of Illinois, Eastern Division, Do Hereby Certify that the above and foregoing is a true and correct copy of Receiver's inventory, filed August 28, 1939, in the matter of Strand Family Laundry Co., a corp. in Bankruptcy No. 71297.

In Testimony Whereof, I have hereunto set my hand at my office in Chicago, in said district and division, this 21st day of June A. D. 1940.

Wallace Streeter,  
Referee in Bankruptcy.

540 And afterwards on, to wit, the 14th day of December, A. D. 1942 there was filed in the Clerk's office of said Court a certain Memorandum of Opinion, etc. in words and figures following, to wit:

541 IN THE DISTRICT COURT OF THE UNITED STATES.  
• • • (Caption—96517) • • •

MEMORANDUM OF OPINION AND ORDER UPON  
PETITION OF HARRY W. CLINE, TRUSTEE,  
FILED DECEMBER 27, 1941, AND THE MOTION OF  
THE RESPONDENTS CHALLENGING JURISDIC-  
TION OF THIS COURT.

On December 22, 1941, Harry W. Cline filed his petition against Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., in which he seeks an order directing the respondents to turn over certain assets allegedly belonging to the bankrupt corporation. The petition indicates that the respondents were in possession of said assets for a period of approximately fifteen months.

The respondents were thereupon directed by order of Court, to answer said petition, which answer was filed on January 2, 1942. The answer denies certain allegations of



the Trustee's petition, moves to strike certain others, and alleges that none of the property described ever belonged to or was owned by the bankrupt. The answer prays that the petition be dismissed and that such other orders be entered as the Court may deem proper. On April 10, 1942, the respondents filed a separate motion to dismiss the petition, and, as one of the grounds for said motion, 542 alleged that the Court was without jurisdiction over the subject matter.

A number of hearings were had at which evidence was adduced on the subject matter involved. At the close of the hearings, the respondents moved orally that the petition be dismissed for want of summary jurisdiction. Subsequently, on May 9, 1942, the respondents filed their written motion for said purpose.

This Court is thus called upon to determine whether it has summary jurisdiction over the respondents or whether the respondents waived their rights to contest the jurisdiction of this Court by the filing of their answer as aforesaid and by allowing evidence to be taken. Extensive and well-written briefs have been submitted to the Court by both sides.

In matters of this character, the prime jurisdictional question is that of possession of the res. In the case of *Thompson v. Magnolia Petroleum Co., et al.*, 309 U. S. 478, Mr. Justice Black stated that bankruptcy courts have summary jurisdiction to adjudicate controversies over which they have actual or constructive possession. The test of this jurisdiction is not title to but possession by the bankrupt at the time of the filing of the petition in bankruptcy.

The petition of the Trustee admits that the property in question was not in actual possession of the bankrupt. The Trustee contends, however, that the possession by the respondents, because of the circumstances, constitutes constructive possession of the bankrupt. It was, therefore, appropriate for this Court to permit hearings, however extensive, for the purpose of determining this fact. (*Muel-ler v. Nugent*, 184 U. S. 15; *Taubel-Scott-Kitzmiller Co. 543 v. Fox*, 264 U. S. 280.) From the evidence adduced, I must conclude that the possession by the respondents was adverse and that their claim of title was substantial and not merely colorable.

The facts must be analyzed further to determine whether the respondents have consented to the jurisdiction of this Court. It is well settled that a court of bankruptcy may

not adjudicate a controversy with respect to property held adversely to the bankrupt estate under a substantial claim of right, without the consent of the adverse claimant. *Harrison v. Chamberlin*, 271 U. S. 191; *Harris v. First National Bank*, 216 U. S. 382.

In the case at bar, the respondents did not expressly consent to the jurisdiction of this Court. The answer filed by them denies that the bankrupt ever owned the property in question or that the respondents ever dealt with the bankrupt and prays that the petition be dismissed. The motion filed on April 10th denies that the Court had jurisdiction and prays that the petition be dismissed.

Considering all of the above, one can only conclude that the respondents did not consent to jurisdiction by implication and thus waive their right to file a specific motion to dismiss because of lack of jurisdiction prior to the ultimate determination of the issue.

This Court has been advised that there is a plenary suit now pending by the Trustee in Bankruptcy against the respondents, which involves the same subject matter set forth in the petition heretofore described.

In view of all the facts, I find that this Court has no summary jurisdiction in the matter at bar.

544 It Is Therefore Ordered that the motion of Schwartz & Cooper to enter special and limited appearance as co-counsel with Kaplan & Rosenfield, as attorneys for Arthur S. Kaplan, et al, to contest summary jurisdiction and to dismiss the petition of the Trustee and the amendment thereto be, and the same is hereby sustained.

It Is Further Ordered that the petition of Harry W. Cline, as Trustee in Bankruptcy, and the amendment thereto, be and the same are hereby dismissed, without prejudice to the plenary action now pending.

It Is Further Ordered that the entry of this order shall not be construed as an adjudication of the rights or claims of the various parties to the property in question.

Enter:

Archie H. Cohen (Signed)  
*Referee in Bankruptcy.*

Dated: June 24, 1942.

Copies mailed to:

Kaplan & Rosenfield, 39 S. La Salle St., Chicago  
Schwartz & Cooper, 105 W. Monroe St., Chicago  
Harry W. Cline, Trustee, 105 W. Adams St., Chicago  
Russell J. Topper, 100 W. Monroe St., Chicago

545 And afterwards, to wit, on the 2nd day of July, A. D. 1942, being one of the days of the regular June term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy the following entry, to wit:

546 IN THE DISTRICT COURT OF THE UNITED STATES.  
(Caption—76517)

### ORDER.

At Chicago, in the District Court aforesaid on the 2nd day of July, A. D., 1942 before Archie H. Cohen, Referee in Bankruptcy, this cause coming on to be heard upon petition of the Trustee, Harry W. Cline, and it appearing that due and timely notice, has been served upon all interested parties of record and the Court being fully advised in the premises, Doth Order:

That the time for filing by trustee of his petition for review of the order and memorandum opinion of Referee Archie H. Cohen of June 24, 1942 be and the same is hereby extended from the expiration of the statutory ten (10) day period therefor up to and including the 15th day of July, A. D., 1942.

Enter:

Archie H. Cohen,  
*Referee in Bankruptcy.*

547 And afterwards on, to wit, the 15th day of July, A. D. 1942 there was filed in the Referee's office of said Court a certain Petition of Harry W. Cline, Trustee in words and figures following, to wit:

548 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—86517) • •

**PETITION OF HARRY W. CLINE, TRUSTEE, FOR  
THE REVIEW OF AN ORDER ENTERED BY THE  
HONORABLE ARCHIE H. COHEN, REFEREE IN  
BANKRUPTCY, ON JUNE 24, 1942.**

To the Honorable Archie H. Cohen, Referee in Bankruptcy:

Your petitioner, Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc., respectfully shows that he had heretofore on December 22nd, 1941, filed a petition and thereafter on January 27th, 1942, an amendment thereto, seeking the entry of an order directing respondents, Harry Koplin, Arthur Kaplan and Budget Launderers, Inc., to turn over to the Trustee, certain substantial physical assets at the market value of approximately Thirty Thousand (\$30,000.00) Dollars, together with possession of the improved realty located at 2621-31 West Chicago Avenue, Chicago, Illinois, devoted exclusively to general laundry purposes and owned by Bankrupt Respondents, on January 2nd, 1942, filed an answer to Trustee's petition for turn-over order wherein they denied some allegations of said petition, demanded strict proof of others, challenged the legal sufficiency of other paragraphs thereof and then  
549 concluded with a prayer that "having fully answered", that the petition for turn-over order be dismissed and that the Referee enter such other orders as he may seem meet.

After issue was joined, hearings were had and evidence submitted by the respective parties on the issues formulated by Trustee's petition, the amendment thereto and respondents' answer; that the hearings were had on January 13, 1942, January 20, 1942, January 27, 1942, March 17, 1942, April 9, 1942, April 10, 1942, April 23, 1942 and April 30, 1942.

Respondents, on April 10, 1942, presented a written motion to dismiss Trustee's petition. The request was placed upon the ground that one the petitioning creditors was disqualified to act as a petitioning creditor in an involuntary bankruptcy proceeding. Briefs were directed by the Court to be filed. Respondents thereafter failed to comply with the Court's direction and on April 23rd, 1942, they voluntarily withdrew of record the aforesaid motion.

On April 10, 1942, the Referee ordered proofs to be closed on April 23rd, 1942. The formal closing order was not entered until April 30, 1942, notwithstanding the fact that additional evidence was not offered by the respondents after April 23, 1942.

Respondents, on April 30, 1942, orally moved the Referee to dismiss Trustee's petition for turn-over order. The reason assigned was that the Referee was without summary jurisdiction to adjudicate the property rights of adverse claimants in the absence of either actual or 550 constructive possession of the res by the Court.

On March 7, 1942, at the office of Referee Archie H. Cohen, at the request of Ben Rosenfield, counsel for respondents, Harry Koplin, one of the respondents herein, made two compromise proposals to the Trustee, each of which was accepted and approved in accordance with Section 27 of the Federal Bankruptcy Act and each of which proposals respondents thereafter refused to perform.

On May 19th, 1942, a new firm of attorneys, Schwartz & Cooper, entered their appearance as additional counsel for respondents, together with a special and limited appearance of the respondents with a motion challenging the summary jurisdiction of the Court.

Briefs of the respective parties were submitted in support of and in opposition to the jurisdictional motion of May 19, 1942, and the Court on June 24, 1942, sustained said motion and ordered Trustee's petition dismissed for want of jurisdiction. A copy of said order is hereto annexed.

The creditors' claims already filed herein total approximately Fifteen Thousand (\$15,000.00) Dollars, of which Social Security, State Unemployment Insurance and Personal Property Taxes, amount to approximately Seven Thousand (\$7,000.00) Dollars.

Petitioner shows that the aforesaid order of June 24, 1942, is erroneous in the following particulars:

### I.

#### The Summary Jurisdiction of the Court.

1. The finding that respondents did not consent to the summary determination of the issues or that they 551 did not waive their procedural right to a plenary action is erroneous in this, that:

a. The Referee omitted to consider and find that the



respondents failed to file in advance of answer, a special and limited appearance challenging the Court's power to adjudge the issues raised by the Trustee's petition and respondents answer thereto.

b. The Referee omitted to consider and find that the appearance of respondents on December 22nd, 1941, was made voluntarily in response to a formal notice by Trustee which had been served upon them on December 21, 1941 and was not made in response to a rule of the Court to show cause.

c. The Referee omitted to consider and find that respondents in their answer had failed to specify their objection to the summary power of the Court to determine the property rights of the contestants.

d. The Referee omitted to consider and find that respondents by their answer, in the introductory paragraph thereof, stated that they were "answering" Trustee's petition for turn-over order.

e. The Referee omitted to consider and find that respondents by their answer, in a body thereafter, resisted and challenged the merits of Trustee's right or rights to property therein described.

552 f. The Referee omitted to consider and find that the respondents by their answer, in the prayer for relief, stated that they have "fully answered" the petition and then requested affirmative relief of the Court.

g. The Referee omitted to consider and find that the respondents had failed to object to the exercise of the Court's summary jurisdiction at any of the hearings on January 13, 1942, January 20th, 1942, January 27, 1942, March 17, 1942, April 9, 1941, April 10, 1942 and April 23, 1942.

h. The Referee omitted to consider and find that respondents, in their motion to April 10, 1942, for dismissal of Trustee's petition because of the disqualification of one of the petitioning creditors, failed to attack the summary jurisdiction of the Court.

i. The Referee omitted to consider and find that respondents on April 23, 1942, after failure to file supporting briefs, voluntarily withdrew their motion of April 10, 1942.

j. The Referee mis-stated the nature of respondents motion of April 10, 1942, to be jurisdictional, whereas the motion was based upon the disqualification of one of the petitioning creditors to file an involuntary petition in bank-



ruptcy and did not question or assail the summary jurisdiction of the Court.

k. The Referee omitted to consider and find that he had on April 10, 1942, ordered proofs to be closed on April 23, 1942 and thereafter on April 30, 1942, for the first time, respondents challenged orally the summary jurisdiction of the Court.

l. The Referee omitted to consider and find that on May 7, 1942, respondents invoked the jurisdiction of the Court pursuant to Section 27 of the Federal Bankruptcy Act relating to "compromises" and submitted two compromise proposals to the Trustee and Court for approval, both of which were accepted and approved by the Trustee and the Court but unfulfilled by respondents.

m. The Referee omitted to consider and find that the respondents on May 19, 1942, after answering and participating in a full trial upon the merits of the cause, filed a "special and limited appearance" by Schwartz & Cooper, attorneys, for the sole purpose of contesting the jurisdiction of the Court.

n. The Referee erroneously found that the extensive hearings were not upon the merits of the cause but conducted to determine the jurisdiction of the Court by a preliminary inquiry into the substantiality or mere colorability of respondents claim to the property,—the evident purpose in this finding is to show that respondents, by their general appearance, answer and participation in lengthy hearings without jurisdictional objection, did thereby only consent to the preliminary inquiry and not to a trial upon the merits. That this finding is erroneous and that the hearings were conducted upon the merits is evidenced by the following:

554 1. Absence of any record statement by the Referee that the inquiry or hearings were only preliminary and designed to determine the jurisdictional issue.

2. The absence of any record statement or contention by either the Trustee or Respondents, raising the jurisdictional objection and requesting a preliminary inquiry into the character of respondents' claim to determine the summary jurisdiction of the Court.

3. The nature of Trustee's petition and the answer thereto, denying some material averments, demanding strict proof of others, assailing the legal sufficiency of others and concluding with a request for an adjudication

upon the merits is inconsistent with the Referee's finding that the hearings were only a "preliminary inquiry".

4. The order of proof is inconsistent with the finding of "preliminary inquiry" in this, that petitioner's witnesses were presented first to support petitioner's claims, whereas, if the inquiry was only preliminary, the evidence of the respondents would have been presented first, since the issue in such inquiry is confined to the substantiality of the respondents' claims.

5. The taking of evidence, oral and documentary, in support of petitioner's claim, is inconsistent with the asserted finding of "preliminary inquiry" in this, that such an inquiry is limited only to an examination of the respondents' evidence without any consideration of countervailing evidence of the petitioner.

555 6. The extensiveness of the hearings is strong evidence of the fact that the inquiry was not a preliminary one but one designed to determine upon the merits of the property rights of the contestants.

7. The presentation of respondents' motion on April 10, 1942, before the termination of the hearings, to dismiss Trustee's petition because of the disqualification of one of the petitioning creditors, is not consistent with the Referee's finding of "preliminary inquiry" in this, that the presentation of the motion would have been unnecessary until the jurisdictional issue was first determined by such preliminary inquiry.

8. The orders of the Court directing proofs be closed on April 23, 1942 and April 30, 1942, a practice common to hearings and trials upon merits of a cause and uncommon to preliminary judicial inquiries, is for that reason inconsistent with such findings of the Referee.

9. Respondents' oral and written motions on April 30, 1942 and May 19, 1942, raising for the first time the summary jurisdictional issue, is inconsistent with the Referee's finding that the previous extensive hearings constituted only a preliminary inquiry to determine the same issue. Obviously, if the Court was already devoting itself exclusively to the same purpose, presentation thereafter and allowance by the Court of said motions is cogent proof that the Court had not theretofore entertained the same issue, nor conducted an inquiry for that purpose.

10. Respondents' special and limited appearance filed on May 19, 1942, for the purpose of attacking the power

of the Court to determine summarily the property rights of the contestants, would be necessary if the Referee's finding that he was already conducting hearings for 556 the identical purpose was correct. The filing of a special appearance is consistent only with the fact that the Court did not previously entertain or consider the question as to its power to determine summarily the rights of the parties.

2. The Referee erred in failing to find that respondents by their general appearance, answer and participation in lengthy hearings upon the merits of the cause, together with their request for the Court's approval of the compromise proposals, consented to the Court's exercise of its power or powers to summarily adjudge the property rights of Trustee and the Respondents; further, that they thereby waived their procedural right to a plenary disposition of the issues involved herein.

3. The Referee erred in finding that the respondents' claim to the property in question was substantial.

4. The Referee erred in failing to find that the respondents' claim to the property in question was merely colorable and that it had thereby the right or power to determine summarily the issues of the cause.

## II.

### The Adjudication of the Merits of the Controversy.

1. The Referee erred in failing to adjudicate the rights or claims of the respective parties to the property involved in this proceeding.

2. The Referee erred in failing to find and determine that the Trustee is entitled to possession of the realty located at 2621-31 West Chicago Avenue, Chicago, Illinois, and approximately twenty (20) laundry routes, one (1) heat retainer, two (2) softeners, twenty (20) trucks and office furniture, and failing to direct respondents to turn over the aforesaid property to the Trustee.

557 3. The Referee erred in omitting to find as follows:

(a) That Gold Medal Laundries, Inc., the Bankrupt, was in rightful possession of realty from September 7, 1939 to June 12, 1940, as the legal owner thereof.

(b) That respondents neither on June 12, 1940 nor at

any time prior to or subsequent thereto, did own or possess any interest in the ownership of or title to or leasehold estate in the aforesaid realty.

(c) That respondents, on or about June 12, 1940, after acquiring all of the capital stock of the Bankrupt Corporation for the purpose of immobilizing the corporation, "threw out" or "kicked out" of possession the shell bankrupt corporation and wrongfully seized all of the laundry routes, machinery, equipment, trucks and furniture; then commenced business as a new corporate entity known as the "Chicago Laundry Building Co." and thereafter rapidly changed to "Unique Launderers, Inc.," and then to "Budget Launderers, Inc.," all pursuant to respondents' plan to defraud and cheat the creditors of the bankrupt corporation.

4. That the Referee erroneously accepted without inquiry or examination; the advice of Schwartz & Cooper, counsel for respondents, that a plenary proceeding was pending in the United States District Court for the Northern District of Illinois, Eastern Division, involving the same subject matter. The proceeding is entitled: "Harry W. Cline, Trustee for Gold Medal Laundries, Inc., vs. Harry Koplin and Budget Launderers, Inc.," and does not involve Arthur Kaplan, one of the respondents herein.

Further, Trustee in the plenary proceeding seeks not 558 the recovery of physical assets, but the specific performance of a contract requiring Harry Koplin to assign and transfer two-thirds of the capital stock of the Budget Launderers, Inc., to the Gold Medal Laundries, Inc. The complaint requests in the alternative that damages be had against these defendants in the sum of Fifty Thousand (\$50,000.00) Dollars.

Wherefore petitioner prays that said order of the Referee of June 24, 1942, be reviewed and reversed and that this Court determine the property rights of the parties hereto and grant the relief prayed for by Trustee in his petition for turn-over order. Further, that petitioner have such other and further relief as is just and meet in the premises.

Harry W. Cline,

*Trustee in Bankruptcy of Gold Medal Laundries, Inc.,*

By Russell J. Topper,

*Attorney for Petitioner.*

State of Illinois, }  
County of Cook. } ss.

Russell J. Topper, being first duly sworn upon oath, deposes and says that he is the attorney for Petitioner, Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.,; that he has read the foregoing petition for review and knows the contents thereof and that the matters and things therein stated are true in substance and in fact.

Russell J. Topper.

Russell J. Topper,  
*Attorney for Harry W. Cline.*

Subscribed and Sworn to before me this 14th day of July,  
A. D. 1942.

(Seal)

Oscar E. Abrams,  
*Notary Public.*

559 And afterwards on, to wit, the 16th day of July,  
A. D. 1942, there was filed in the Clerk's office of said  
Court a certain Certificate in words and figures following,  
to wit:

560 ~~IN~~ THE DISTRICT COURT OF THE UNITED STATES.  
• • (Caption—76517) • •

CERTIFICATE OF ARCHIE H. COHEN, REFEREE IN  
BANKRUPTCY, IN RE PETITION OF HARRY W.  
CLINE, TRUSTEE IN BANKRUPTCY HEREIN,  
TO REVIEW ORDER ENTERED BY SAID REF-  
EREE ON JUNE 24, 1942.

To the Honorable John P. Barnes, Judge of the District  
Court of the United States, for the Northern District of  
Illinois, Eastern Division, in Bankruptcy Sitting:

Honorable Sir:

Under date of September 22, 1941, an involuntary peti-  
tion for the adjudication of Gold Medal Laundries, Inc.,  
a corporation, as a bankrupt, was filed in the Office of the  
Clerk of the United States District Court, and on Sep-  
tember 26th an order of general reference to the under-



signed was entered. Subsequently, on October 22, 1942, I entered an order of adjudication and granted leave to petitioning creditors to file list of creditors within five days. On October 31st such a list was filed and on November 12, 1941, the first meeting of creditors was held. Thereafter, on November 26th Harry W. Cline was appointed Trustee and on December 4th said Trustee was given leave to employ Russell J. Topper as his counsel.

561 Under date of December 22, 1941, leave was granted to the Trustee to file his petition for entry of an order directing Arthur S. Kaplan, Harry Koplin, "Budget Launderers, Inc.," also known as "Chicago Laundry Building Company, a Corporation" and "Unique Launderers, Inc.," to turn over to the said Trustee certain assets and property of the bankrupt corporation and that in the meantime said respondents be restrained from using customers' lists or routes of the bankruptcy corporation, etc. The respondents were ruled to answer the aforesaid petition within ten days and hearing thereon was set for January 13, 1942 at 10:30 A. M. The answer of Arthur S. Kaplan, et al., was filed January 2, 1942.

On January 13th hearings on the aforesaid petition and answer were held both in the forenoon and afternoon, lasting four hours, and again on January 20 for one and one-half hours, and January 27th for two hours. By leave of court first had and obtained Harry W. Cline, Trustee, filed an amendment to his petition for turnover order on January 27th. Subsequent hearings on the aforesaid petition, amendment thereto, and the answer of the respondents were held on March 17th lasting two hours and April 9th lasting one and one-half hours. The motion of Arthur S. Kaplan, et al., for entry of an order dismissing the Trustee's petition for turnover order was filed on April 10, 1942. Further hearings were held on April 23, 1942, for one and one-half hours and on April 30th for one-quarter hours, at which time proofs were closed and the matter taken under advisement.

Thereafter, under date of May 19, 1942, the motion of Schwartz and Cooper to enter special and limited appearance as co-counsel with Kaplan and Rosenfield, as 562 attorneys for Arthur S. Kaplan, et al., to contest summary jurisdiction of the court and motion of said respondents to dismiss the petition of the Trustee for turnover order was filed and set for hearing on May 21, at 10:30 A.



M., at which time a hearing lasting one hour and one-half was held and the matter taken under advisement. Leave was granted to the Trustee and respondents to exchange memoranda within ten days.

Memorandum brief of Russell J. Topper, attorney for Trustee, and memorandum of authorities on behalf of Arthur S. Kaplan, et al, by Schwartz & Cooper and Ben Rosenfield, were filed on June 2, 1942.

On June 24, 1942, Memorandum of Opinion and Order was entered by the undersigned Referee in Bankruptcy sustaining the motion of Schwartz & Cooper to enter special and limited appearance as co-counsel with Kaplan & Rosenfield, as attorneys for Arthur S. Kaplan, et al, to contest summary jurisdiction and to dismiss the petition of the Trustee and the amendment thereto, and dismissing the petition of the Trustee and the amendment thereto without prejudice to the plenary action now pending, and further that the entry of this order shall not be construed as an adjudication of the rights or claims of the various parties to the property in question, a true and correct copy of said order being hereto attached and by this reference thereto, made a part hereof.

On July 2, 1942, upon notice and petition, an order was entered extending the time for the Trustee to file petition to review Memorandum of Opinion and Order of June 24, 1942 to and including July 15, 1942.

On July 15, 1942, Harry W. Cline, Trustee in Bankruptcy herein, filed his petition to review the aforesaid order entered on June 24, 1942, and the issues thus raised by the said petition for review are herewith certified to this Honorable Court for ruling thereon.

The motion to fix a date for the hearing on the foregoing certificate and the petition for review filed herein has been set before Your Honor, or before whatever Judge may be holding court in your place and stead, for Monday, July 20, 1942 at 10 o'clock.

Respectfully submitted,

Archie H. Cohen,

*Referee in Bankruptcy.*

Dated: Chicago, July 16, 1942.

Papers transmitted herewith:

1. Notice filed December 22, 1941.
2. Petition of Trustee for turnover order filed Dec. 22, 1941.

3. Answer of Arthur S. Kaplan, et al, to Trustee's petn., filed January 2, 1942.

4. Amendment to Trustee's petition for turnover order, filed January 27, 1942.

5. Motion of Arthur S. Kaplan, et al, to dismiss petition of Trustee for turnover order, filed April 10, 1942.

6. Notice filed May 19, 1942.

7. Special and limited appearance of Arthur S. Kaplan, et al, and motion to dismiss petition for turnover order and amendment thereto, filed May 19, 1942.

8. Memorandum brief of Russell J. Topper filed June 2, 1942.

9. Memorandum of authorities by Schwartz & Cooper and Ben Rosenfield, filed June 2, 1942.

10. Reply of Arthur S. Kaplan, et al, to memorandum brief of Trustee, filed June 9, 1942.

11. Letter Memorandum of Russell J. Topper dated June 11, 1942.

563 12. Notice filed July 2, 1942.

13. Petition of Trustee for extension of time to file petition for review, filed July 2, 1942.

14. Notice and petition of Trustee for review filed July 15, 1942.

15. Exhibits: Trustee's Exhibit 1a id, 2 to 14, both inclusive; Trustee's Exhibits 1, 2, 2a, 2b, 2c, 2d, 2e, 3, 4, 5, Trustee's exhibit (Agreement), all of 1-20-42; and Respondent's Exhibit 1 id of April 9, 1942.

15. Transcript of testimony of hearings held January 13, 20, 27, March 17, April 9, 10 and 23, 1942.

**Copies mailed to:**

Russell J. Topper, 100 W. Monroe St., Chicago.

Kaplan & Rosenfield, 39 S. La Salle St., Chicago.

Schwartz & Cooper, 105 W. Monroe St., Chicago.

Harry W. Cline, 105 West Adams St., Chicago.

564 And afterwards, to wit, on the 1st day of September,

A. D. 1942, being one of the days of the regular July term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to wit:

565 IN THE DISTRICT COURT OF THE UNITED STATES.  
 (Caption—76517)

### ORDER.

At Chicago, Illinois, in said District before the Honorable John Barnes, District Judge. Dated: September 1, 1942.

This cause coming on to be heard upon oral argument of the parties to the proceeding on review of the memorandum of opinion and order of Archie H. Cohen, Referee in Bankruptcy, entered on the 24th day of June, A. D. 1942, dismissing Trustee's petition for turn-over of assets and property therein specified, and the Court being advised in the premises, Doth Order:

That Archie H. Cohen, Referee in Bankruptcy, be and he is authorized and directed to file with this Court on or before September 15, A. D., 1942, an additional certificate in the aforesaid cause and such additional certificate shall specifically set forth the following particulars, namely:

1. When the question of jurisdiction was first raised.
  2. How the question of jurisdiction was first raised.
  3. Who first raised the question of jurisdiction.
  4. The circumstances under which the question was first raised.
  5. Transcript of the record or the shorthand notes of the court reporter showing the date that the jurisdiction
- 566 was first raised.

Enter:

Barnes,  
 Judge.

567 And afterwards on, to wit, the 11th day of September, A. D. 1942, there was filed in the Clerk's office of said Court a certain Additional Certificate etc., in words and figures following, to wit:

568 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—76517)

ADDITIONAL CERTIFICATE OF ARCHIE H. COHEN,  
REFEREE IN BANKRUPTCY, IN RE PETITION OF  
HARRY W. CLINE, TRUSTEE IN BANKRUPTCY  
HEREIN, TO REVIEW ORDER ENTERED BY SAID  
REFEREE ON JUNE 24, 1942, AS AUTHORIZED  
AND DIRECTED BY THIS HONORABLE COURT ON  
SEPTEMBER 1, 1942.

(Filed with Clerk, Sept. 11, 1942.)

To the Honorable John P. Barnes, Judge of the District  
Court of the United States, for the Northern District of  
Illinois, Eastern Division, in Bankruptcy Sitting:

Honorable Sir:

Pursuant to the authority and direction of this Honorable  
Court, as set forth in the order entered by Your Honor  
on September 1, 1942, that I file an additional Certificate in  
the aforesaid cause and specifically set forth the following  
particulars, namely:

1. When the question of jurisdiction was first raised;
2. How the question of jurisdiction was first raised;
3. Who first raised the question of jurisdiction;
4. The circumstances under which the question was first  
raised;
5. Transcript of the record or the shorthand notes of  
the court reporter showing the date that the jurisdiction  
was first raised;

I do hereby state with regard to the first particular, viz.,

"When the question of jurisdiction was first raised",  
569 that in the answer filed by the respondents Arthur S.

Kaplan, Harry Koplin and Budget Launderers, Inc., a  
corporation, by Arthur S. Kaplan, one of the respondents  
and duly authorized agent on behalf of Harry Koplin and  
Budget Launderers, Inc., a corporation, certain specific  
admissions and denials were set forth answering the sixteen  
paragraphs contained in the Trustee's petition for turn-  
over and the answer concluded with a prayer that an order  
might be entered dismissing the petition for turn-over.

The eighth paragraph admits that Arthur S. Kaplan pur-  
chased from Maurice Ginsburg and Max Heiman on the

12th day of June, A. D. 1940, all of their right, title and interest acquired by them from Maurice Klein, as receiver, in a prior bankruptcy proceeding involving the Strand Family Laundry Company, and in the fourteenth paragraph the said respondent, Arthur S. Kaplan, admits the purchase of the right, title and interest of Maurice Ginsburg and Max Heiman and the entry into a contract to purchase the realty from the record title holder, the First United Finance Company, a corporation, and also the purchase from the legal holders and record title owners of all of the fixtures, machinery, apparatus and furniture then located in and upon the premises at 2621-31 West Chicago Avenue, Chicago, and that none of the property herein described, real or personal, equitable or legal, ever belonged to or was ever owned by Gold Medal Laundries, Inc., a corporation.

Aside from these averments contained in the answer filed on January 2, 1942, at the hearing on April 9, 1942, which commenced about ten o'clock in the forenoon, Mr. Rosenfield, of counsel for the respondents, urged that by reason of facts brought out in this proceeding on the petition for turn-over order, "I would like leave to file a written motion and present argument on it", stating that, "It is a jurisdictional proposition".

As to the second particular, "How the question of jurisdiction was first raised", I state that aside from the admissions and denials and prayer for dismissal contained in the answer of the respondents, the oral request for leave to file a written motion and present argument on it was made by Mr. Rosenfield.

As to the third particular, "Who first raised the question of jurisdiction", I desire to state that it was by Mr. Rosenfield, of counsel for the respondents.

With regard to the fourth particular, "The circumstances under which the question was first raised", I can inform this Honorable Court that it was during the testimony of Solomon I. Arnpolin, who was called as a witness by the respondents, and the attorney for the Trustee objected to the entire line of examination on the ground that "it does not affect the issue as to whether or not the Trustee is entitled to the assets here set forth in the Trustee's petition, which it is charged have been seized unlawfully and taken by the three respondents". Mr. Topper further said, "Even assuming this man's claim can be discredited (Mr.



Arnopolin being one of the petitioning creditors in the instant case)—and it has already been allowed—that certainly does not affect the issues before Your Honor on the Trustee's petition." Mr. Rosenfield responded, "I don't agree with that," and during the cross-examination by Mr.

Topper of the witness Arnopolin Mr. Rosenfield requested leave to file a written motion challenging the jurisdiction of the Court.

Pertaining to the fifth particular, "Transcript of the record or the shorthand notes of the court reporter showing the date that the jurisdiction was first raised," at Page 343 of the transcript of the record the date of the hearing will appear and the statements of counsel and the Referee at Pages 384 and 385.

In view of the direction of this Honorable Court requiring an additional Certificate specifically setting forth the particulars which I have heretofore stated, I should like to invite the attention of this Honorable Court to the transcript of record, Pages 387 and 388, showing the proceedings had at the adjourned hearing on April 10, 1942 at 11:30 o'clock in the forenoon, and also to the proceedings had on April 23, 1942 at 10:00 A. M., on which date, at the commencement of the hearing, Mr. Rosenfield, of counsel for the respondents, withdrew his motion attacking the jurisdiction of the Court, and accordingly I granted leave to withdraw the motion to strike the petition for want of jurisdiction, and also ruled upon the motion of the Trustee to strike the testimony of the witness Arnopolin with reference to his claim as a creditor of this estate. (See transcript Pages 392 and 393). Subsequently, at the adjourned hearing on April 30, 1942, Mr. Rosenfield presented his motion to dismiss the petition for turn-over order on various grounds, as shown in the transcript of the record at Page 432.

Respectfully submitted,

Archie H. Cohen,

*Referee in Bankruptcy.*

Dated: Chicago, September 11, 1942.

572 Copies mailed to:—

Russell J. Topper, 100 W. Monroe St., Chicago.

Kaplan & Rosenfield, 39 S. La Salle St., Chicago.

Schwartz & Cooper, 105 W. Monroe St., Chicago.

Harry W. Cline, 105 West Adams St., Chicago.



573 And afterwards on, to wit, the 22nd day of October, A. D. 1942, there was filed in the Clerk's office of said Court a certain Memorandum, in words and figures following, to wit:

574 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—76517) \* \*

### MEMORANDUM.

This cause comes on to be heard on the petition of Harry W. Cline, Trustee, for the review of an order, entered by the Referee in Bankruptcy on June 24, 1942, wherein the Referee dismissed, for want of jurisdiction, a petition filed by the Trustee for an order directing the respondents, therein named, to turn over certain assets alleged to belong to the bankrupt corporation.

The Trustee contends that the order of the Referee is erroneous because: (1) The Referee found that respondents did not consent to the summary determination of the issues and that they did not waive their procedural right to a plenary action; and (2) the Referee failed to adjudicate the merits of the controversy between the parties.

On December 22, 1941, the Trustee filed with the Referee his petition for entry of an order directing Arthur S. Kaplan, Harry Koplin, Budget Launderers, Inc., also known as Chicago Laundry Building Company, a corporation, and Unique Launderers, Inc., to turn over to said Trustee certain assets and property alleged to belong to the bankrupt.

On January 2, 1942, the respondents, by their attorneys, filed an answer to the Trustee's petition, by which answer the respondents denied some allegations of the petition, denied knowledge and demanded strict proof of others, 575 challenged the legal sufficiency of other parts of the petition, made additional averments of fact as to the ownership of the property in question, and concluded with the following prayer:

"Wherefore, these respondents having fully answered, pray that an order may be entered dismissing the petition for turn-over order and for such other orders as to the Court may seem meet."

Hearings were held before the Referee on the petition and answer on January 13th, 20th, and 27th, 1942, March 17th, 1942; and on April 9th, 10th, 23rd and 30th, 1942. At the hearings, witnesses were produced both for the Trustee and the respondents, the testimony presented covering 435 type-written pages. At the hearing held on April 23rd this appears (p. 430 of the Transcript):

"Mr. Topper (atty. for Trustee): The Court directed that proofs be closed today.

Mr. Rosenfield (atty. for Respondents): There was no such order.

The Court: Do you want me to enter an order that proofs be closed next time?

Mr. Rosenfield: I don't think you should do that. I believe we will be able to complete our proof at that time.

The Court: That is enough. We will continue to April 30, at two o'clock."

When the Referee convened court for the April 30th hearing, counsel for the respondents orally moved to dismiss the petition for turn-over order on the basis that the Referee was without jurisdiction to determine by a summary proceeding the property rights of adverse claimants in the absence of possession of the property in the trustee or the court. On that day no evidence was introduced and the proofs were closed.

On May 19, 1942, a new firm of attorneys entered their appearance as co-counsel for respondents, and the respondents filed their "Special and limited appearances for the sole purpose of contesting the jurisdiction of this Court," praying that

576 "an order be entered determining that your respondents are adverse claimants, that this Court does not have jurisdiction to determine the rights of these respondents in and to the property referred to in the Trustee's petition and amendment thereto in a summary manner, and that the said petition of the Trustee and the first amendment thereto be dismissed."

Briefs were submitted to the Referee on the motion, the motion was taken under advisement, and on June 24, 1942, the Referee filed an opinion and order, wherein he held that he was without summary jurisdiction in the matter and dismissed the petition of the Trustee.

The Supreme Court has held, in *Page v. Arkansas*, 286

U. S. 269, that, although the right of a trustee in bankruptcy to compel a conveyance of property of the bankrupt adversely claimed ordinarily may be asserted only in a plenary suit, a proceeding to that end may be had summarily before the referee if both parties consent. That court has also said, in *MacDonald v. Plymouth*, 286 U. S. 263, that a proceeding by a trustee in bankruptcy to set aside voidable preferences under Section 60(b) of the Bankruptcy Act, which ordinarily must be by plenary suit, may be had summarily before the referee if the parties consent. The general principles of law governing the situation here are well-stated by the Circuit Court of Appeals for the Seventh Circuit in the case of *In re Murray*, 92 F. 2d 612 (p. 614):

"The bankruptcy court has no jurisdiction to entertain a summary proceeding to recover property held by an adverse claimant alleged to be rightfully that of the bankrupt estate, in the absence of the latter's consent. It has jurisdiction of such controversies in plenary suits brought by the trustee. However, it is equally true that, having jurisdiction of the subject-matter in a plenary suit, the objection to proceeding summarily may be waived by the adverse party by an answer amounting in law to consent to the procedure. In other words, the objection to summary procedure does not go to the jurisdiction of the subject-matter but to the jurisdiction to proceed in a summary way. This clearly may be waived."

577 The court further said (p. 615):

"Here, appellant filed his answer to the show cause order upon the merits. He voluntarily conveyed the property to the trustee in bankruptcy to abide the outcome of the hearing; he presented all of his evidence upon an accounting. It was too late for him thereafter for the first time to question the jurisdiction of the court over the subject-matter. He had waived his personal privilege of demanding that the cause of action be asserted in a plenary proceeding. He must be held to have consented to the jurisdiction."

In the recent case of *West Produce Corporation*, 118 F. 2d 274 (2nd C. C. A.), the court said (p. 277):

"An objection to summary jurisdiction must be timely. It comes too late if first made after the referee

has issued his turn-over order. \* \* \* We think it also too late if first made at the time of submission for decision, after answer and a hearing on the merits."

: Here, the jurisdiction of the Referee to hear the controversy in a summary proceeding was not challenged until after there had been an answer on the merits, an extensive hearing on the merits, the proofs closed, and the case ready for decision by the Referee. The court is of the opinion that the respondents have waived their privilege of demanding that the matter be heard in a plenary proceeding and that they have consented to the summary jurisdiction.

The Referee, having power to decide the issues presented by the petition and answer, and having heard all the evidence, the matter will be returned to the Referee for decision.

Note: The foregoing seems to be all that is necessary to be said on the issues before the court. However, the Referee, in his original certificate, and again in his second certificate, made statements which are attached hereto as a part of an appendix. These two references in the two certificates of the Referee have to do with a matter entirely different from the matter before the court, as appears from excerpts from the transcript of evidence attached hereto as a part of the appendix and a copy of a motion, dated April 10, 1942, which is also attached hereto as a part of the appendix.

Barnes,

Judge.

October 22, 1942.

578

#### APPENDIX.

Excerpts from Referee's First Certificate,  
filed July 16, 1942:

o "The motion of Arthur S. Kaplan, et al, for entry of an order dismissing the Trustee's petition for turnover order was filed on April 10, 1942." (p. 2)

"On April 10, 1942, the respondents filed a separate motion to dismiss the petition, and, as one of the grounds for said motion, alleged that the Court was without jurisdiction over the subject matter." (pp. 1 and 2 of copy of Referee's "Memorandum of Opinion and Order, etc.", attached to Certificate.)

Excerpts from Referee's Second Certificate,  
filed September 11, 1942:

"Aside from these averments contained in the answer filed on January 2, 1942, at the hearing on April 9, 1942, which commenced about ten o'clock in the forenoon Mr. Rosenfield, of counsel for the respondents, urged that by reason of facts brought out in this proceeding on the petition for turn-over order, 'I would like leave to file a written motion and present argument on it,' stating that, 'It is a jurisdictional proposition.'

"As to the second particular, 'How the question of jurisdiction was first raised,' I state that aside from the admissions and denials and prayer for dismissal contained in the answer of the respondents, the oral request for leave to file a written motion and present argument on it was made by Mr. Rosenfield.

"As to the third particular, 'Who first raised the question of jurisdiction,' I desire to state that it was by Mr. Rosenfield, of counsel for the respondents.

"With regard to the fourth particular, 'The circumstances under which the question was first raised,' I can inform this Honorable Court that it was during the testimony of Solomon J. Arnopolin, who was called as a witness by the respondents, and the attorney for the Trustee objected to the entire line of examination on the ground that 'it does not affect the issue as to whether or not the Trustee is entitled to the assets here set forth in the Trustee's petition, which it is charged have been seized unlawfully and taken by the three respondents.' Mr. Topper further said, 'Even assuming this man's claim can be discredited (Mr. Arnopolin being one of the petitioning creditors in the instant case)—and it has already been allowed—that certainly does not affect the issues before Your Honor on the Trustee's petition.' Mr. Rosenfield responded, 'I don't agree with that,' and during the cross-examination by Mr. Topper of the witness Arnopolin Mr. Rosenfield requested leave to file a written motion challenging the jurisdiction of the court.

"Pertaining to the fifth particular, 'Transcript of the record or the shorthand notes of the court reporter showing the date that the jurisdiction was first raised,' at Page 343 of the transcript of the record the date of the hearing will appear and the statements of counsel and the Referee



at Pages 384 and 385. "In view of the direction of this Honorable Court requiring an additional Certificate specifically setting forth the particular which I have hereinbefore stated, I should like to invite the attention of this Honorable Court to the transcript of record, Pages 387 and 388, showing the proceedings had at the adjourned hearing on April 10, 1942, at 11:30 o'clock in the forenoon, and also to the proceedings had on April 23, 1942 at 10:00

A. M., on which date, at the commencement of the 579 hearing, Mr. Rosenfield, of counsel for the respondents, withdrew his motion attacking the jurisdiction of the Court, and accordingly I granted leave to withdraw the motion to strike the petition for want of jurisdiction, and also ruled upon the motion of the Trustee to strike the testimony of the witness Arnopolin with reference to his claim as a creditor of this estate. (See transcript Pages 392 and 393). Subsequently, at the adjourned hearing on April 30, 1942, Mr. Rosenfield presented his motion to dismiss the petition for turn-over order on various grounds, as shown in the transcript of the record at Page 432." (Bottom page 2, and pages 3 and 4).

#### Excerpts from Transcript of Evidence:

"Mr. Rosenfield: I offer that evidence as a tender of proof to sustain this position, if the Court please: This man is one of the petitioning creditors in the petition upon which an adjudication was had. The adjudication rests, necessarily, upon the formal petition.

"The Court: Is there a contest on the adjudication?

"Mr. Rosenfield: We can't contest it. These are facts being brought out in this proceeding on the petition for turn-over order. It makes no difference where the facts are ascertained or when, for the first time, those facts are ascertained. If those facts are just ascertained now, and it is a question that goes to the entire jurisdiction of the Court, it can be raised at any time. It is a jurisdictional proposition.

"The Court: Did you attack the jurisdiction? You have answered this petition, have you not?

"Mr. Rosenfield: With the knowledge we had at that time:

"Mr. Rosenfield: I would like leave to file a written motion and present argument on it.

"The Court: All right. Let us go ahead. I will give you leave to do that.

"Mr. Rosenfield: I think that is important enough to have that question determined before we proceed with anything else." (Hearing of April 9, 1942, pp. 383-4).

"Mr. Rosenfield: I am withdrawing that motion that was pending here.

"The Court: All right. The record may show that the motion is withdrawn.

"Mr. Topper: More specifically, that is the motion of the respondents.

"The Court: It was a motion attacking the jurisdiction of the Court.

"Mr. Rosenfield: That is right.

"Mr. Rosenfield: There was just a motion filed.

"The Court: Was there a written motion?

"Mr. Topper: Yes.

"The Court: Leave to withdraw the motion to strike the petition for want of jurisdiction, \* \* \*." (Hearing of April 23, 1942, pp. 392-3).

580

Motion filed April 10, 1942:

"IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* \* (Caption—76517) \* \*

**MOTION OF ARTHUR S. KAPLAN, HARRY KOPLIN,  
BUDGET LAUNDERERS, INC., RESPONDENT TO  
PETITION OF TRUSTEE FOR TURNOVER ORDER.**

To The Honorable Archie H. Cohen  
Referee in Bankruptcy

Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., a corporation, by Kaplan & Rosenfield their attorneys move this Honorable Court for the entry of an order dismissing the Petition for Turnover Order heretofore filed herein by Harry W. Cline, Trustee in bankruptcy of the Gold Medal Laundries, Inc., a corporation bankrupt herein for the following reasons:

(1) That S. I. Arnopolin, one of the petitioning credi-

tors for adjudication of bankruptcy herein was, at the time of the filing of said petition for adjudication, disqualified and incompetent to be a petitioning creditor for the following reasons:

(a) the said S. I. Arnopolin was not a duly qualified creditor of bankrupt corporation.

(b) the said S. I. Arnopolin was at the time of the filing of the petition of adjudication herein an officer, to-wit: President, of Gold Medal Laundries, Inc., a corporation, bankrupt herein, and thereby disqualified to act as a petitioning creditor.

(c) that one of the acts of bankruptcy complained of in the petition for adjudication, and one of the acts complained of in the trustee's petition for turnover order is the alleged transfer of the assets of the Gold Medal Laundries, Inc., a corporation, bankrupt herein to these respondents; that in fact said S. I. Arnopolin was a party thereto having signed and executed on behalf of the said Gold Medal Laundries, Inc., a corporation, the agreement complained of in said petitions.

By reason of the foregoing, no jurisdiction has vested in this Honorable Court in this cause, and the court is without jurisdiction of the subject matter, and should not further hear evidence in support or denial of the petition heretofore filed herein.

Wherefore, these respondents pray that an order may be entered by this Honorable Court dismissing the petition of trustee for a turnover order and for the entry of such other orders as this court may deem proper and necessary.

Kaplan & Rosenfield  
*Attorneys for the within named respondents*

By (Signed Ben Rosenfield  
Ben Rosenfield

Dated at Chicago, Illinois this 10th day of April, 1942."

581. And afterwards, to wit, on the 4th day of January, A. D. 1943, being one of the days of the regular December, 1942 term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy appears the following entry, to wit:

582 IN THE DISTRICT COURT OF THE UNITED STATES.  
(Caption—76517)

MEMORANDUM OF OPINION AND ORDER UPON  
PETITION OF HARRY W. CLINE, TRUSTEE,  
FILED DECEMBER 22, 1941, AND THE ANSWER  
OF RESPONDENTS THERETO.

On December 22, 1941, Harry W. Cline, trustee of the above named bankrupt, filed his petition against Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., also known as "Chicago Laundry Building Company, a corporation," and as "Unique Launderers, Inc.", to turn over to said trustee certain assets and property described in said petition which the trustee alleged belonged to the bankrupt. Respondents answered denying the material allegations contained in said petition, and asked for strict proof of others. On October 22, 1942, the Honorable John P. Barnes, Judge of the District Court, reversed the decision of the undersigned in sustaining respondents' attack on the summary jurisdiction of the bankruptcy court, which said order directed that the Referee, having power to decide the issue presented by the petition and answer, and having heard all the evidence, should decide the matter on the merits.

The trustee's petition for turn-over order alleges that on or about August 15, 1939, the Strand Family Laundry Company, a corporation, filed a voluntary petition in bankruptcy in this court; that the assets of said corporation were purchased from the receiver by Maurice Ginsburg and Max Heiman for the sum of \$3,000.00, and that the purchasers also agreed to assume the payment of outstanding wage claims; that it was orally agreed at the time of said purchase between Ginsburg, Heiman and the Millman family, who will be referred to further, that the Millmans were to organize a new corporation known as "Gold Medal Laundries, Inc.", the present bankrupt, and that Ginsburg and Heiman would take title to the assets purchased from the receiver of the Strand Family Laundry Company, and would ultimately transfer title to said assets to Gold Medal Laundries, Inc., upon receiving payment therefor; that Gold Medal Laundries, Inc. was incorporated on September 7, 1939, and

paid, or caused to be paid to Ginsburg and Heiman the sum of \$60.00 per week, in accordance with said oral agreement.

The trustee's said petition also alleges that the said assets purchased by Ginsburg and Heiman in the Strand bankruptcy proceedings had a value of approximately \$30,000.00 on December 22, 1941, when the trustee's petition was filed. The trustee also alleges that Gold Medal Laundries, Inc., pursuant to the said oral agreement with Ginsburg and Heiman, paid or caused to be paid to Ginsburg and Heiman weekly payments of \$60.00 each up to June 12, 1940; that on said latter date Ginsburg and Heiman allegedly sold and conveyed to Arthur S. Kaplan, for and on behalf of Harry Koplin, all of their right, title and interest, legal and beneficial, in and to the assets and property acquired by them in the Strand bankruptcy proceedings. The trustee comments that this conveyance 584 was made in the absence of any default or violation of the said oral agreement between Gold Medal Laundries, Inc., and Ginsburg and Heiman. It is also contended by the trustee in his said petition that Koplin, as well as Kaplan, knew of the existence of said oral agreement and that no default existed thereunder, and also that neither Koplin nor Kaplan nor Ginsburg notified any of the creditors of Gold Medal Laundries, Inc., of the sale to Koplin by Ginsburg. The trustee contends that this is in violation of the statutes of the State of Illinois, though no statute is specified.

The trustee further alleges that on or about September 7, 1939, Gold Medal Laundries, Inc., entered into possession of the premises located at 2621-31 West Chicago Avenue, Chicago, Illinois, and thereafter conducted, operated and carried on the business of a general laundry until on or about July 1, 1940; that on or about June 12, 1940, Budget Launderers, Inc., also known as "Chicago Laundry Building Company, a corporation", and "Unique Launderers, Inc.", without notice or demand, unlawfully and wrongfully ousted and dispossessed the bankrupt; that said alleged unlawful and wrongful ouster and dispossession and acquisition of assets and property was conceived, formulated and executed pursuant to a plan of conspiracy of Harry Koplin and Arthur S. Kaplan to defraud and cheat the creditors of Gold Medal Laundries, Inc.

It is further alleged that Harry Koplin purchased or



otherwise acquired, between March and June 14, 1940, the entire ownership and control of the issued capital stock of Gold Medal Laundries, Inc.; that he created or caused to be created the Chicago Laundry Building Corporation, 585 a corporation, which successively changed its name to "Unique Launderers, Inc." and "Budget Launderers, Inc.", and the trustee contends that said corporation was formed for the express purpose of acquiring and stripping the bankrupt of all of its assets, without payment of its creditors' claims. The trustee further asserts that none of the respondents is the owner of the assets and property referred to in the petition as being the property of the bankrupt corporation, and that said assets were the property of the bankrupt corporation at the time the petition in bankruptcy was filed—that is—on September 22, 1941. Accordingly, the trustee prayed that said respondents turn over said assets and property.

As I stated above, the respondents denied all of the material allegations of the petition.

Considerable evidence was introduced during the hearings had before me and sixteen witnesses appeared and were heard. Documentary evidence was also introduced and constitute exhibits in the record in this cause. After examining the pleadings filed and considering the evidence, both oral and documentary, introduced before me, I herewith make the following findings of fact:

1. Gold Medal Laundries, Inc., the present bankrupt, arose out of the preceding bankruptcy in the Strand Family Laundry Company. The latter corporation was administered in bankruptcy in Chicago under a petition which was filed August 15, 1939. The principal stockholders of Strand were Samuel H. and Samuel F. Millman, 586 the same persons who later formed the present bankrupt and became its principal stockholders.

2. The assets of the Strand Family Laundry Company were purchased in the bankruptcy court by Maurice Ginsburg and Max Heiman for \$3,000.00, and the purchasers agreed to obtain waivers from wage claimants for the benefit of the Strand estate.

3. Ginsburg was and still is a client of Robert J. Millman, an attorney, who is a brother of Samuel H. Millman and a nephew of Samuel F. Millman. Heiman is distantly related to Samuel F. Millman.

4. The Strand assets were purchased by Ginsburg and

Heiman upon the advice and request of Robert J. Millman, with the understanding that Samuel F. and Samuel H. Millman were to form a new corporation known as "Gold Medal Laundries, Inc." The Millmans intended to operate a laundry business on the same premises and with the same assets which formerly belonged to the Strand Family Laundry Company.

5. After the assets were acquired by Ginsburg and Heiman they entered into an oral lease agreement with the Millmans and Gold Medal Laundries, Inc., in accordance with which Gold Medal Laundries, Inc., the bankrupt, agreed to pay Ginsburg \$60.00 a week for the use of all of the assets which formerly belonged to the Strand Family Laundry Company, including machinery, equipment, customers' routes, customers' lists, trade name, good will, etc. Ginsburg agreed to execute and deliver a bill of sale to said property to the bankrupt after the latter corporation paid him \$6,100.00 in rental. The difference between \$6,100.00 and \$3,000.00, the amount paid for said assets by Ginsburg and Heiman, represented the 587 amount of the claim which Ginsburg had against the Strand Family Laundry Company, bankrupt. Ginsburg intended to recoup his loss against the old corporation in this manner.

6. Gold Medal Laundries, Inc., the present bankrupt, was incorporated on September 7, 1939, and its issued capital stock amounted to \$1,000.00. Its incorporators were S. I. Arnopolin, Ruth Kordine and S. Kostman. The bankrupt's capital stock was owned by the Millmans, and the evidence shows that they paid no money or equivalent value therefor.

7. The only property which the present bankrupt had available for its operation when it started in business consisted of the assets which belonged to Ginsburg, which he purchased in the Strand Bankruptcy proceedings, and \$500.00 in cash, which was advanced by Ginsburg as working capital. From its very inception the present bankrupt was in constant financial difficulty. Its checks were dishonored by its bank and it was compelled to operate on a cash basis very shortly after its incorporation. It remained on such a cash basis up to the time of its bankruptcy.

8. The equity of the Strand Family Laundry Company in the real estate occupied by it was also included in the sale of its assets to Ginsburg and Heiman. In April, 1937,

said real estate was in foreclosure, and at the request of and by agreement with the Strand Family Laundry Company, the First United Corporation, a finance company in Chicago, bid \$13,000.00 for same at the foreclosure sale. A special commissioner's deed was issued to the finance company on November 4, 1939. After Strand's bankruptcy and after Ginsburg and Heiman had acquired its assets from the receiver, the First United Corporation refused to enter into any agreements with Ginsburg or the present bankrupt for repayment on an extended installment basis of the money invested by the finance company in said real estate. The finance company insisted on being repaid promptly.

9. On or about November 21, 1939, Harry Koplin agreed to purchase Ginsburg's interest in the property which Ginsburg and Heiman originally acquired in the Strand bankruptcy. On March 6, 1940, a contract was entered into between Koplin, Gold Medal Laundries, Inc., and Arthur S. Kaplan, an escrowee, and said contract provided that Koplin would cause a corporation to be organized to be known as the "Laundry Building Corporation", or any other appropriate name, with an authorized capital of \$75,000.00 (See Trustee's Exhibit A); that Koplin would cause the proposed corporation to issue to him shares of stock aggregating the total of funds to be advanced by him in payment for said shares, and that Koplin would pay for the shares to be issued to him an amount sufficient to enable the proposed corporation to do the following:

A—To purchase of First United Finance Corporation all of its right, title and interest in the real estate commonly known as 2621-31 West Chicago Avenue, Chicago, Illinois, as well as its right, title and interest in a certain chattel mortgage.

B—To pay and satisfy indebtedness due and owing to certain conditional sales vendors in connection with certain machinery and equipment located on said premises.

C—To purchase of Ginsburg all of his right, title and interest in and to the property which he acquired in the Strand bankruptcy.

589 D—To discharge and pay real estate taxes levied against said real estate.

E—To pay other legal obligations of the laundry.

F—To pay State and Federal taxes.

G—To pay any incidental cost or expenses incurred in the organization of the proposed corporation.

By the same agreement the present bankrupt corporation undertook to make weekly installment payments, varying from \$100.00 to \$200.00, until the entire purchase price, together with interest thereon, shall have been fully repaid to Koplin. These weekly installment payments were to commence one week after the consummation of the purchase of Ginsburg's interest in and to the assets he acquired in the Strand bankruptcy. In addition to said weekly installment payments, the present bankrupt, commencing on March 15, 1940, was to make additional payments to Koplin. In the event the present bankrupt shall fully pay to Koplin the purchase price advanced by Koplin for the acquisition of the property therein referred to, including interest thereon, then the escrowee shall deliver to the present bankrupt certificates representing two-thirds of the capital stock of the present bankrupt, and Koplin was to receive one-third of the shares of said capital stock. The contract further provided that in the event that the bankrupt shall default in the payment of any installment of the purchase price, and if such default shall not have been cured within sixty days after service by registered mail of notice of such default upon the bankrupt, then Koplin could, at his option, without further notice, declare said agreement to be null and void, and thereupon the escrowee would be required to re-deliver to Koplin the capital stock of the proposed corporation, together with the remaining certificates representing capital stock of the present bankrupt corporation.

10. Koplin paid Ginsburg the sum of \$3900.00 for his right, title and interest in and to the assets acquired by him in the Strand bankruptcy. The present bankrupt or others on its behalf had paid the weekly rental on said property up to the time of Koplin's purchase.

11. On or about May 10, 1940, Koplin caused the Chicago Laundry Building Company, a corporation, to be formed, to take title to the property to be acquired and purchased by him pursuant to the said contract of March 6, 1940. The name of this corporation was later changed to "Unique Launderers, Inc.", and finally to "Budget Launderers, Inc."

12. On June 12, 1940, Koplin actually paid for and acquired Ginsburg's interest in the property he purchased in the Strand bankruptcy, and paid him the sum of \$3,900.00 therefor, which sum represented the balance then

due to Ginsburg under his oral lease agreement with the present bankrupt. In addition thereto, Koplin paid employees who had wage claims against the old Strand Family Laundry bankrupt, as well as employees who had claims against the present bankrupt. (See Transcript of Evidence, Page 403.)

13. On March 7, 1940, Koplin, through Arthur S. Kaplan, acting as agent for Laundry Building Corporation, the proposed corporation, entered into an agreement with First United Finance Corporation for the acquisition and purchase of the real estate which was occupied by the present bankrupt, and certain chattel mortgage property for the sum of \$21,000.00. (See Trustee's Exhibit 3-1/26/42.) At that time Koplin caused to be paid to First United \$9,000.00, to be applied on the purchase price, leaving a balance then due of \$12,000.00. Subsequently Koplin reduced said balance due to the First United to the sum of \$4,500.00, he having paid a total under said contract of \$16,500.00, plus interest. The balance of \$4,500.00 was tendered to First United on condition that the finance company deliver clear title to Koplin in accordance with said contract of March 7, 1940. As of the present date, First United has been unable to make such delivery of title.

14. The evidence shows that Koplin paid substantial balances which remained due on conditional sales contracts covering laundry machinery and equipment which was used by the present bankrupt to the following conditional sales vendors: Huebsch Company, Prosperity Company and Zephyr Laundry Machinery Company.

15. On the Saturday preceding July 1, 1940, the Collector of Internal Revenue at Chicago proceeded to execute a distress warrant against the present bankrupt for the collection of delinquent Federal taxes. (See Transcript of Evidence Pages 407, 408.) Arthur S. Kaplan persuaded the Federal authorities not to proceed with the execution and arranged for the payment of the taxes. At that time Samuel F. Millman concluded that the present bankrupt could operate no longer, regardless of the provisions contained in the March 6, 1940 agreement, and he turned over possession of the premises and property to Kaplan. It was agreed that Koplin should commence operations as of the following Monday morning. The evidence shows and I so find that the Millmans voluntarily gave up the possession to Koplin, and that they freely abandoned



whatever interest they might have had in the said contract, and I further find that they waived all right to the sixty days notice provided for in said contract of March 6, 1940; and I further find that at the time when the Millmans, acting for the present bankrupt, voluntarily gave up said possession to Koplin that the present bankrupt was hopelessly insolvent.

16. The evidence shows, and I so find that Harry Koplin invested in excess of \$50,000.00 in the Chicago Laundry Building Corporation, subsequently known successively as "Unique Launderers, Inc." and "Budget Launderers, Inc.", for the acquisition and purchase of the property which is now claimed by the trustee in bankruptcy. (See Transcript of Evidence Pages 238 and 239, and testimony of Harry Koplin and Arthur S. Kaplan.) Said investment is represented by payments made by Koplin on balances which were due to the foregoing named conditional sales vendors on conditional sales contracts covering laundry machinery and equipment, payments made by him on past due salaries due not only from the present bankrupt but also from the Strand Family Laundry Company, payment of taxes, payments made to First United Finance Corporation for the real estate and chattel mortgaged property, and payments made to Ginsburg for his interest in the property purchased by him in the Strand bankruptcy. There is no dispute in the evidence on these facts. Koplin paid Samuel F. Millman the sum of \$5,000.00 for the latter's agreement not to engage in a competitive business for 593 a period of five years within an area of one mile from the premises which were formerly occupied by the present bankrupt. (See Trustee's Exhibit 6—1/20/42.)

17. After Harry Koplin assumed the operation of the laundry, which was after the Millmans, acting for the present bankrupt, had abandoned same, he purchased a fleet of new trucks with his own funds. The old trucks which belonged to the present bankrupt were sold to a junk dealer as junk, and the proceeds were not paid to Koplin. The balance of about ten trucks which belonged to the present bankrupt were repossessed by a finance company which held chattel mortgages covering same.

18. The evidence shows and I so find that Ginsburg never saw Harry Koplin in his life prior to the hearing in this cause; that he had never agreed to sell the assets

which he acquired in the Strand bankruptcy to Gold Medal Laundries, Inc., the present bankrupt, and also that he had never spoken to Arthur S. Kaplan at any time.

19. Gold Medal Laundries, Inc., the present bankrupt, acquired no new assets of any kind from the date of its incorporation to the date of its bankruptcy.

20. At the time of its incorporation, that is, on September 9, 1939, Gold Medal Laundries, Inc., the present bankrupt, owned no property whatsoever; from the time of its incorporation to the time that it voluntarily turned over possession to Harry Koplin it used property which belonged either to Ginsburg or Koplin. Neither the incorporators nor the stockholders of Gold Medal Laundries, Inc., the present bankrupt, contributed any property or assets of any kind to the corporation for the stock which was issued to them. The working capital of the present bankrupt, namely, the sum of \$500.00, was advanced by Ginsburg.

21. The evidence shows and I so find that the present bankrupt from its inception was in constant financial difficulties.

22. Gold Medal Laundries, Inc., the present bankrupt, made none of the payments which it was required to make under the contract of March 6, 1940.

23. The evidence shows and I so find that there was no conspiracy whatsoever between Harry Koplin and Arthur S. Kaplan to defraud or cheat creditors of Gold Medal Laundries, Inc., of any rights, claims, assets or property.

24. The evidence shows and I so find that the Chicago Laundry Building Corporation was not organized for the purpose of acquiring and stripping the present bankrupt of all of its assets without payment to creditors, nor was the Chicago Laundry Building Corporation formed for the purpose of defrauding the creditors of the present bankrupt.

25. The evidence shows and I so find that the assets and property referred to in the trustee's petition for turn-over order never constituted property belonging to the bankrupt. Samuel H. Millman, a certified public accountant, employed by the bankrupt corporation and related to the stockholders of said corporation, testified that although the bankrupt showed this property as an asset, it was always his opinion that this was incorrect because the bankrupt corporation did not own said property.

It is interesting to note that Ginsburg paid \$3,000.00 in purchasing the assets from the receiver in the Strand 595 bankruptcy in September, 1939, and that he sold his interest in the identical assets and property to Koplin on June 12, 1940, for \$3,900.00. The conclusion is irresistible, therefore, that there was practically no appreciation in the value of said property from the time that it was purchased in the Strand bankruptcy to the time it was acquired by Koplin, so that there could be no equity in said property in favor of the trustee in bankruptcy.

After a calm and careful consideration of the evidence presented before me, both oral and documentary, I am constrained to find, and conclude as a matter of law, that the trustee's petition for turn-over order should be denied. In the opinion of the court, the trustee has not established that he is entitled to the property referred to in his petition for turn-over order, as amended. The law is clear that in a proceeding in bankruptcy for a turn-over order a trustee must support his claims by evidence which is clear and convincing. The respondents are charged with fraud, and such a charge must be established by the same kind of evidence that is required in a court of equity in a case of fraud. The trustee is required to establish his claims by more than even a preponderance of evidence. The court in passing on the issues raised under a petition for turn-over should therefore require clear evidence of the justice of such an order before it is made. *Oriel v. Russell*, 278 U. S. 358; *In re Deutscher*, 33 F. Suppl. 576 (1940); *In re Arbee Upholstering Co., Inc.*, 46 F. Supp. 797 (1942), and cases cited in the opinion of *In re Deutscher* supra.

In the instant case the trustee has not, in the opinion 596 of the court, supported his claim for a turn-over order by clear and convincing evidence. In the opinion of the Court the trustee has not supported his claim by even a preponderance of the evidence. The evidence furnishes abundant proof that the respondents are the owners of the property in question, Koplin having advanced in excess of \$50,000.00 for said property, and it has been established that said property never constituted assets of the bankrupt corporation, so that the trustee herein has no legal or equitable claim thereto.

Wherefore, It Is Hereby Ordered, Adjudged And Decreed that the petition of Harry W. Cline, trustee herein,

*Order Extending Time, Etc.*

for turn-over order filed December 22, 1941, and amended January 27, 1942, be and the same is hereby denied.

Enter:

Archie H. Cohen,

*Referee in Bankruptcy.*

Dated: January 4, 1943.

Copies mailed to: .

Russell J. Topper, 100 W. Monroe St., Chicago  
Schwartz & Cooper, 105 W. Monroe St., Chicago  
Kaplan & Rosenfield, 39 S. La Salle St., Chicago  
Harry W. Cline, 105 West Adams St., Chicago

597 And afterwards, to wit, on the 13th day of January, A. D. 1943, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy, appears the following entry, to wit: .

598 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* \* (Caption—76517) \* \*

At Chicago, in Said District, This 13th Day of January, A. D. 1943, Before the Honorable Archie H. Cohen,  
Referee in Bankruptcy.

And this day comes Harry W. Cline, Trustee, by his attorney, Russell J. Topper, and it appearing that due and timely notice has been served upon all of the interested parties of record and further, that the parties have stipulated to the relief sought herein, and the Court being fully advised, Doth Order:

That the time for filing by Trustee of his petition for review of the order and memorandum opinion of Referee Archie H. Cohen, of January 4, A. D. 1943, be and the same is hereby extended up to and including the 30th day of January, A. D. 1943.

Enter:

Archie H. Cohen,

*Referee in Bankruptcy.*

599 And afterwards on, to wit, the 29th day of January, A. D. 1943 there was filed in the Referee's office of said Court a certain Petition in words and figures following, to wit:

600 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—76517) • • •

PETITION OF HARRY W. CLINE, TRUSTEE, FOR THE REVIEW OF AN ORDER ENTERED BY THE HONORABLE ARCHIE H. COHEN, REFEREE IN BANKRUPTCY, ON JANUARY 4, 1943.

To the Honorable Archie H. Cohen, Referee in Bankruptcy:

Your petitioner, Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc., respectfully shows that he had heretofore on December 22, A. D. 1941, filed a petition and thereafter on January 27, A. D., 1942, an amendment thereto, seeking the entry of an order directing respondents, Harry Koplin, Arthur Kaplan and Budget Launderers, Inc., to turn over to the Trustee, certain substantial physical assets at the market value of approximately Thirty Thousand and no/100 Dollars (\$30,000.00), together with possession of the improved realty located at 2621-31 West Chicago Avenue, Chicago, Illinois, devoted exclusively to general laundry purposes and owned by Bankrupt. Respondents, on January 2, A. D., 1942, filed an answer to Trustee's petition for turn-over order wherein they denied some allegations of said petition, demanded strict proof of others, challenged the legal sufficiency of other paragraphs thereof and then concluded with a prayer that "having fully answered", that the petition for turnover order be dismissed and that the Referee enter such other orders as he may seem meet.

After issue was joined, hearings were had and evidence submitted by the respective parties on the issues formulated by Trustee's petition, the amendment thereto and respondents' answer; that the hearings were had on January 13, A. D., 1942, January 20, A. D. 1942, January 27, A. D., 1942, March 17, A. D., 1942, April 9, A. D., 1942, April 10, A. D., 1942, April 23, A. D., 1942 and April 30, A. D., 1942.

Respondents, on April 10, A. D., 1942, presented a written



motion to dismiss Trustee's petition. The request was placed upon the ground that one of the petitioning creditors was disqualified to act as a petitioning creditor in an involuntary bankruptcy proceeding. Briefs were directed by the Court to be filed. Respondents thereafter failed to comply with the Court's direction and on April 23, A. D., 1942, they voluntarily withdrew of record the aforesaid motion.

On April 10, A. D., 1942, the Referee ordered proofs to be closed on April 23, A. D., 1942. The formal closing order was not entered until April 30, A. D., 1942, notwithstanding the fact that additional evidence was not offered by the respondents after April 23, A. D., 1942.

For the first time, respondents, on April 30, A. D., 1942, at the close of all the evidence, orally moved the Referee to dismiss Trustee's petition for turnover order. The reason assigned was that the Referee was without summary jurisdiction to adjudicate the property rights of adverse claimants in the absence of either actual or constructive possession of the res by the Court.

On May 7, A. D., 1942, at the office of Referee Archie H. Cohen, at the request of Ben Rosenfield, counsel for respondents, Harry Koplin, one of the respondents herein, made two compromise proposals to the Trustee, each of which was accepted and approved in accordance with Section 27 of the Federal Bankruptcy Act and each of which proposals respondents thereafter refused to perform.

602. On May 19, A. D., 1942, a new firm of attorneys, Schwartz & Cooper, entered their appearance as additional counsel for respondents, filing, for the first time, a written special and limited appearance of the respondents with a motion challenging the summary jurisdiction of the Court.

Briefs of the respective parties were submitted in support of and in opposition to the jurisdictional motion of May 19, A. D., 1942, and the Court, on June 24, A. D., 1942, sustained said motion and ordered Trustee's petition dismissed for want of jurisdiction.

That on October 22, A. D., 1942, on review of the order of Referee of June 24, A. D., 1942, the Honorable John P. Barnes, Judge of the District Court, reversed said order and directed the Referee to determine the cause upon its merits.

On January 4, A. D., 1943, the Referee, pursuant to the

order of the District Judge of October 22, A. D., 1943, determined that the relief sought by the Trustee in his petition for turnover should be denied and accordingly, directed that the application for turnover be denied.

The creditors' claims, already filed herein, total approximately fifteen Thousand and no/100 Dollars (\$15,000.00), of which Social Security, State Unemployment Insurance and Personal Property Taxes, amount to approximately Seven Thousand and no/100 Dollars (\$7,000.00).

Petitioner shows that the aforesaid order of January 4 A. D., 1943 is erroneous in the following particulars:

I.

Possession of the Improved Realty.

1. The Referee erroneously failed to consider and find that the bankrupt, on September 7, A. D., 1939, the 603 date of its incorporation, up to June 12, A. D., 1940, was in lawful and continuous possession of the improved premises located at 2631-31 West Chicago Avenue, Chicago, Illinois.

2. The Referee erroneously failed to consider and find that neither on June 12, A. D., 1940, nor at any time prior or subsequent thereto, did these respondents own, possess or hold in any manner any legal or equitable interest in and to the aforesaid improved realty or in and to any leasehold estate appertaining thereto.

3. The Referee erroneously failed to consider and find that on June 12, A. D., 1940, the only interest owned by these respondents in any wise relating to the improved realty was an executionary right to acquire the mortgage thereon at some future time from the First United Finance Corporation; further, that on June 12, A. D., 1940 these respondents had not nor have they since said time, acquired the mortgage on said premises.

4. The Referee erroneously failed to find that the bankrupt on June 12, A. D., 1940 was "kicked out" and dispossessed of the realty aforesaid by these respondents.

5. The Referee erroneously found that on June 12, A. D., 1940, the bankrupt, by and through the "Millmans", "voluntarily" surrendered the possession of the realty to these respondents.

6. The Referee failed to find that even if the bankrupt "voluntarily" turned over or "abandoned" possession of the realty to these respondents, nevertheless Trustee was and is entitled to repossession since respondents are devoid of any right, title or interest into the ownership or possession thereof and are unlawfully retaining said possession without right or interest therein.

7. The Referee erroneously failed to find that the respondents unlawfully dispossessed and ousted the bankrupt from possession of the aforesaid realty and that such conduct of these respondents constituted acts of a trespasser.

8. The Referee erroneously failed to find that on or about June 12, A. D., 1940, the respondents had purchased or otherwise acquired all of the capital stock of the bankrupt for the purpose of immobilizing the bankrupt corporation and thereby preventing any action by the bankrupt in resisting its wrongful ouster of possession.

9. The Referee erroneously failed to find that from June 12, A. D., 1940 up to the time the adjudication of the bankrupt, respondents owned, possessed and controlled all of the capital stock of the bankrupt.

10. The Referee erroneously failed to conclude and direct that the respondents deliver up to Trustee, the possession of the premises located at 2621 31 West Chicago Avenue, Chicago, Illinois.

## II.

Twenty Laundry Routes, Good Will, Laundry Machinery,  
Etc.

1. The Referee erred in failing to find that Ginsburg and Heiman had purchased the assets of the Strand Family Laundry bankruptcy sale on or about August 15, A. D., 1939, pursuant to an agreement with the Millmans wherein Ginsburg and Heiman were to transfer title or ownership in such acquired assets to the bankrupt upon its organization as a corporation on September 7, A. D., 1939.

2. The Referee erred in failing to find that Ginsburg and Heiman had on September 7, A. D., 1939, by sale, transferred to the bankrupt, all of their right, title and in-

terest in and to the laundry routes, good will, laundry machinery and equipment, trucks and furniture and realty at the sale price of Six Thousand One Hundred and no/100 Dollars (\$6,100.00) to be paid Sixty and no/100

Dollars (\$60.00) weekly until fully satisfied with bare legal title being retained by Ginsburg and Heiman as security for the payment of the purchase price.

3. The Referee erred in finding that Ginsburg and Heiman had never agreed to sell the assets they had acquired in the Strand Family Laundry bankruptcy sale to the bankrupt.

4. The Referee erred in finding that on September 7, A. D., 1939, Ginsburg and Heiman entered into a "lease agreement" with the bankrupt with respect to the use of the assets acquired by them in the bankruptcy sale of the Strand Family Laundry.

5. The Referee erred in failing to find that the bankrupt had not defaulted and had paid each and every weekly installment of Sixty and no/100 Dollars (\$60.00) under its contract of sale with Ginsburg and Heiman until June 12, A. D., 1940, when all the capital stock of the bankrupt was purchased and acquired by these respondents.

6. The Referee erred in finding that Ginsburg and Heiman, after the incorporation of the bankrupt on September 7, A. D., 1939, continued to own the assets purchased by them in the bankruptcy sale of the Strand Family Laundry.

7. The Referee erred in failing to find that on June 12, A. D., 1940, Harry Koplin, one of the respondents, had, with knowledge of the sales agreement between the bankrupt and Ginsburg and Heiman, purchased only the interest of Ginsburg and Heiman in the contract of sale with the bankrupt.

8. The Referee erred in failing to find that Harry Koplin, in the purchase of the interest of Ginsburg and Heiman received as a credit upon the purchase price, the sum of Two Thousand Two Hundred and no/100 Dollars (\$2,200.00), paid by the bankrupt corporation under its contract of sale with Ginsburg and Heiman.

9. The Referee erred in failing to find that on June 12, A. D., 1940, respondents, in the absence of any default by the bankrupt under the aforesaid contract of sale, wrongfully seized all of the laundry routes, ma-

chinery and equipment, trucks and furniture which the bankrupt had acquired from Ginsburg and Heiman and that these respondents, at all times since, have persisted in their wrongful detention of such assets.

10. The Referee erred in failing to find that the "Chicago Laundry Building Corporation", the "Unique Launderers, Inc." and "Budget Launderers, Inc." are one and the same corporation owned, dominated and controlled by Harry Koplin and having operated as a general laundry business at the same address of the bankrupt since June 12, A. D., 1940.

11. The Referee erred in finding that Trustee seeks that property for which Harry Koplin had paid the sum of approximately Fifty Thousand and no/100 Dollars (\$50,000.00), whereas in fact the Referee erred in failing to find that whatever sums of money were invested by Harry Koplin were used to purchase the mortgage on the real estate and the conditional sales liabilities but not to acquire and purchase the title to and possession of the real estate located at 2621-31 West Chicago Avenue, Chicago, Illinois, the title to two (2) large water softeners, tanks, one (1) heat reclaimer and twenty (20) laundry routes, trucks and office furniture, together with valuable equities in all of the laundry machinery and equipment, subject to conditional sales contracts and never repossessed.

12. The Referee erred in failing to find that on or about June 12, A. D., 1940, Harry Koplin, in addition to the interest of Ginsburg and Heiman for which he paid Three Thousand and Nine Hundred and no/100 Dollars (\$3,900.00), purchased the capital stock of the bankrupt, owned by Samuel H. Millman, for the sum of Three Thousand and no/100 Dollars (\$3,000.00) and thereafter 607 paid the other stock holder, Samuel F. Millman, Five Thousand and no/100 Dollars (\$5,000.00), but failed to pay anything to the general and unsecured creditors of the bankrupt.

13. The Referee erred in failing to find that Trustee owned and was entitled to legal title and possession of the improved realty located at 2621-31 West Chicago Avenue, Chicago, Illinois, approximately twenty (20) laundry routes, good will, two (2) water softeners and tanks, one (1) heat reclaimer and equities in and to all of the laundry machinery and equipment subject to the conditional sales contract.



14. The Referee erred in failing to direct that these defendants turn over to the Trustee all of the assets hereinbefore described in the paragraph immediately preceding.

15. The Referee erred in finding that the Trustee was required to prove his right to the property in question by evidence greater than a preponderance.

16. The Referee erred in finding and concluding that Trustee's petition for turnover order be denied.

Wherefore, petitioner prays that the order of Referee in Bankruptcy of January 4, A. D., 1943, be reviewed and reversed and that this District Court grant the relief prayed for in Trustee's petition for turnover; further, that petitioner have such other and further relief as is just and meet in the premises.

Harry W. Cline,

Trustee in Bankruptcy of Gold Medal Laundries, Inc.

By Russell J. Topper,

Attorney for Petitioner.

608 State of Illinois, }  
County of Cook: } ss.

Russell J. Topper, being first duly sworn upon oath, deposes and says that he is the attorney for petitioner, Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.; that he has read the above and foregoing petition for review and knows the contents thereof and that the matters and things therein stated are true in substance and in fact.

Russell J. Topper.

Subscribed and sworn to before me this, 27th day of January, A. D., 1943:

Helen Berenice Spitzer,

(Seal)

Notary Public.

609 And afterwards on, to wit, the 2nd day of February, A. D. 1943, there was filed in the Clerk's office of said Court a certain Certificate in words and figures following, to wit:

CFO IN THE DISTRICT COURT OF THE UNITED STATES

(Caption—76517)

CERTIFICATE OF ARCHIE H. COHEN, REFEREE  
IN BANKRUPTCY, IN RE PETITION OF HARRY  
W. CLINE, TRUSTEE IN BANKRUPTCY HEREIN,  
TO REVIEW ORDER ENTERED BY SAID REF-  
EREE ON JANUARY 4, 1943.

(Filed with Clerk Feb. 2, 1943.)

To the Honorable John P. Barnes, Judge of the District  
Court of the United States, for the Northern District of  
Illinois, Eastern Division, in Bankruptcy Sitting.

Honorable Sir:

Under date of September 22, 1941, an involuntary peti-  
tion for the adjudication of Gold Medal Laundries, Inc.,  
a corporation, as a bankrupt, was filed in the Office of the  
Clerk of the United States District Court, and on Septem-  
ber 26th an order of general reference to the undersigned  
entered. Subsequently, on October 22, 1942, I entered an  
order of adjudication and granted leave to petitioning  
creditors to file list of creditors within five days. On  
October 31st such a list was filed and on November 12,  
1941, the first meeting of creditors was held. Thereafter,  
on November 26th Harry W. Cline was appointed Trustee  
and on December 4th said Trustee was given leave to  
employ Russell J. Topper as his counsel.

611 Under date of December 22, 1941, leave was granted  
to the Trustee to file his petition for entry of an order  
directing Arthur S. Kaplan, Harry Koplin, "Budget Launderers, Inc.", also known as "Chicago Laundry Building Company, a Corporation" and "Unique Launderers, Inc.", to turn over to the said Trustee certain assets and property of the bankrupt corporation and that in the meantime said respondents be restrained from using customers' lists or routes of the bankrupt corporation, etc. The respondents were ruled to answer the aforesaid petition within ten days and hearing thereon was set for January 13, 1942, at 10:30 A. M. The answer of Arthur S. Kaplan, et al, was filed January 2, 1942.

On January 13th hearings on the aforesaid petition and

answer were held, both in the forenoon and afternoon, lasting four hours, and again on January 20th for one and one-half hours, and January 27th for two hours. By leave of court first had and obtained Harry W. Cline, Trustee, filed an amendment to his petition for turnover order on January 27th. Subsequent hearings on the aforesaid petition, amendment thereto, and the answer of the respondents were held on March 17th lasting two hours and April 9th lasting one and one-half hours. The motion of Arthur S. Kaplan, et al, for entry of an order dismissing the Trustee's petition for turnover order was filed on April 10, 1942. Further hearings were held on April 23, 1942, for one and one-half hours and on April 30th for one-quarter hour, at which time proofs were closed and the matter taken under advisement.

Thereafter, under date of May 19, 1942, the motion of Schwartz and Cooper to enter special limited appearance as co-counsel with Kaplan and Rosenfield, as attorneys for Arthur S. Kaplan, et al, to contest summary jurisdiction of the Court and motion of said respondents to dismiss the petition of the Trustee for turnover order was filed and set for hearing on May 21st at 10:30 A. M., at which time a hearing lasting one hour and one-half was held and the matter taken under advisement. Leave was granted to the Trustee and respondents to exchange memoranda within ten days.

Memorandum brief of Russell J. Topper, attorney for Trustee, and memorandum of authorities on behalf of Arthur S. Kaplan, et al, by Schwartz & Cooper and Ben Rosenfield, were filed on June 2, 1942, and on June 9, 1942, reply of the respondents to Memorandum brief of the Trustee was filed.

On June 24, 1942, Memorandum of Opinion and Order was entered by the undersigned Referee in Bankruptcy sustaining the motion of Schwartz & Cooper to enter special and limited appearance as co-counsel with Kaplan & Rosenfield, as attorneys for Arthur S. Kaplan, et al, to contest summary jurisdiction and to dismiss the petition of the Trustee and the amendment thereto, and dismissing the petition of the Trustee and the amendment thereto without prejudice to the plenary action now pending, and further that the entry of this order shall not be construed as an adjudication of the rights or claims of the various parties to the property in question.

On July 2, 1942, upon notice and petition, an order was entered extending the time for the Trustee to file petition to review Memorandum of Opinion and Order of June 24, 1942, to and including July 15, 1942, and on July 15, 1942,

Harry W. Cline, Trustee in Bankruptcy herein, filed 613 his petition to review the aforesaid order entered on June 24, 1942, and on the following day I filed with Your Honor my Certificate in re the said petition for review.

Under date of July 20, 1942, Your Honor set the aforesaid Certificate on petition to review my order entered June 24, 1942, for hearing on September 1, 1942, at 10 A. M. and entered a rule on the petitioner to file brief on or before July 30, 1942, rule on the respondent to file brief on or before August 10, 1942, and rule on petitioner to file reply brief on or before August 17, 1942.

Subsequently, on September 11, 1942, as authorized and directed by Your Honor's order of September 1, 1942, I filed an additional Certificate in connection with the aforesaid petition to review. Under date of October 22, 1942, Your Honor entered a Memorandum to the effect that the matter would be returned to me for decision, the Referee having the power to decide the issues presented by the petition of the Trustee for turnover of certain assets and property, and the answer thereto and having heard all the evidence.

After a careful study of the oral and documentary evidence submitted before me and calm consideration of the facts and circumstances established by the said proofs and the law applicable thereto, on January 4, 1943, I entered a Memorandum of Opinion and Order denying the petition of Harry W. Cline, Trustee herein, for turnover order filed December 22, 1941, and amended January 27, 1942, a true and correct copy of said order being hereto attached and by this reference thereto made a part hereof.

614 By stipulation an order was entered by the undersigned on January 13, 1943, extending the time for the Trustee to file petition for review of the aforesaid Memorandum of Opinion and Order to and including January 30, 1943.

On January 29, 1943, Harry W. Cline, Trustee herein, filed his petition to review the aforesaid order entered on January 4, 1943, and the issues thus raised by the said

petition for review are herewith certified to this Honorable Court for ruling thereon.

The motion to fix a date for the hearing on the foregoing Certificate and Petition for review filed herein has been set before Your Honor for Thursday, February 4, 1943, at 10 o'clock in the forenoon.

Respectfully submitted,

Archie H. Cohen,

*Referee in Bankruptcy.*

Dated: Chicago, February 2, 1943.

615 Papers transmitted herewith:

1. Copy of petition of Trustee for turnover order, filed December 22, 1941.
2. Copy of answer of Arthur S. Kaplan, et al, to petition of Trustee, filed January 2, 1942.
3. Copy of First amendment to Trustee's petition for turnover order, filed January 27, 1942.  
(Originals of the above papers sent to Clerk's Office for use in connection with appeal.)
4. Stipulation filed January 13, 1943.
5. Notice filed January 29, 1943.
6. Petition of Harry W. Cline, Trustee, for review, filed January 29, 1943.
7. Exhibits: Trustee's Exhibits 1a id.; 2 to 14, both inclusive; Trustee's Exhibits 1, 2, 2a, 2b, 2c, 2d, 2e, 3, 4, 5, and Trustee's exhibit (Agreement), all of 1-20-42; and Respondent's Exhibit 1 id. of April 9, 1942.
8. Transcript of testimony of hearings held January 13, 20, 27, March 17, April 9; 10 and 23, 1942.

Copies mailed to:

Russell J. Topper, 100 W. Monroe St., Chicago.

Kaplan & Rosenfield, 39 S. La Salle St., Chicago.

Schwartz & Cooper, 105 W. Monroe St., Chicago.

Harry W. Cline, 105 West Adams St., Chicago.

616 And afterwards, to wit, on the 20th day of July, A. D. 1943, being one of the days of the regular July term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Archie H. Cohen, Referee in Bankruptcy, appears the following entry, to wit:



617 IN THE DISTRICT COURT OF THE UNITED STATES.

\* \* (Caption—76517) \* \*

AT CHICAGO, IN SAID DISTRICT, THIS 20TH DAY  
OF JULY, 1943, BEFORE THE HONORABLE  
ARCHIE H. COHEN, REFEREE IN BANKRUPTCY:

This matter coming on to be heard upon the petition of Harry Koplin, Budget Launderers, Inc., and Arthur Kaplan for an order modifying the restraining order entered herein on February 13, 1942, by the undersigned, which said order is incorporated in the said petition this day filed, and it appearing to the court from said petition and the statements of counsel that certain machinery and equipment specifically described in said petition was acquired by petitioners subsequent to July 1, 1940, with their respective personal funds, and that none of said funds was contributed by the bankrupt herein, and that said machinery and equipment was placed by petitioners on the premises at 2621 West Chicago Avenue, Chicago, Illinois.

And it further appearing to the court that the said machinery and equipment which is hereinafter more specifically itemized does not constitute any of the property involved in the trustee's petition for turn-over order filed in this cause on December 22, 1941, and that the trustee in bankruptcy herein and this estate do not have any claim or interest therein.

And it further appearing to the court that said petitioners have received requests from the United States

Navy for the purchase of certain of said machinery  
617 and equipment, as well as requests from other persons  
who are desirous of acquiring certain of said machinery and equipment.

And it further appearing to the court that the terms of said restraining order of February 13, 1942, should be modified so as to permit said petitioners to dispense of all or any part of said machinery and equipment hereinafter described, due notice of said petition having been given in writing to the attorney for the trustee herein, and said attorney for the trustee and the attorney for the petitioners being present in open court, and the court having heard the statements of counsel and being fully advised in the premises,

Now, Therefore, It Is Ordered as follows:

1. The order entered February 13, 1942, by the undersigned be and it hereby is modified so that Harry Koplin, Budget Launderers, Inc., and Arthur Kaplan may sell, lease, encumber, pledge or otherwise dispose of, without further order of the court, the following described machinery and equipment belonging to them located on the premises at 2621 West Chicago Avenue, Chicago, Illinois:

1—30 x 30 Huebsch Tumbler, Open End with Zephyr Control, 4 Coils—#12815.

1—36 x 30 Huebsch Open End Tumbler with Zephyr Tumbler Control, 4 Coils—#8208.

1—Troy 36 x 36 Wood Washer—Black Iron Cylinder—Single End Belt Drive 1½ in. Huebsch valve.

1—Troy 44 x 48 Titan Wood Washer—Zephyr Wood Cylinder—Single End Belt Drive with 1½ in. Huebsch valve—#27743.

1—Zephyr Wood Washer, 54 x 36, Motor Driven—#123040—Stainless Steel Covered Ribs—Single End Drive with 1½ in. Huebsch Valve—American 3 H. P. Motor #7441—Type H. N. 880. 1750 R. P. M.

1—Zephyr Wood Washer, 54 x 42, #40713—Single End Belt Driven, Stainless Steel Covered Ribs—2 in. Huebsch Valves—Reversing type.

619 1—Zephyr Wood Washer, 54 x 60, #4075—Single End Belt Driven, Stainless Steel Covered Ribs—2 in. Huebsch Valves.

1—Zephyr Wood Washer, 54 x 60, #40620—Single End Belt Driven, Stainless Steel Covered Ribs—2 in. Huebsch Valves.

1—Zephyr Wood Washer, 54 x 60—#41118—Single End Belt Driven, Stainless Steel Covered Ribs—2½ in. Huebsch Valves.

1—Zephyr Wood Washer, 54 x 60—Single End Belt Driven Washer #5 Stainless Steel Covered Ribs—2½ in. ribs.

1—Zephyr Wood Washer, 54 x 60—#51117—Single End Belt Driven, Stainless Steel Covered Ribs, 2 in. Huebsch Valve.

2—Zephyr Wood Washers, 48 x 126—Double End Belt Driven—#38113—#38111 Stainless Steel Covered Ribs. 3 Pkt.—3 Doors—2½ in. Huebsch Valves.

1—2 Cylinder 36 in. Willy Royal Ironer #785, 120 in.

## Order Re: Restraining Order.

7 1/2 H. P. Inductron Motor 1750 R. P. M. Triumph Elec.  
#S.5933—V. Belt Driven.

1—United Shirt Starch Machine—Mode S.M.C. #145.

1—Cissell Sock Form Dryer #366.

17—Trucks.

## Downer Shirt Unit

1 Pros.	2740 P. C.	#91059	Bosom Press
1 "	132 P. C.	#91513	Body Press
1 "	821 P. O.	#91724	Yoke Press
1 Huebsch Collar Form		#3816	
1 Pros. Folding Table with Iron Stand			
1 "	825 P. O.	#91782	Sleeve Press
1 "	825 P. O.	#91756	Sleeve Press
1 "	2440 P. C.	#91498	O & C Press

.....

1 Pros.	2740 P. C.	#91194	Bosom Press
1 "	132 P. C.	#91512	Body Press
1 "	821 P. O.	#91701	Yoke Press
1 "	2440 P. C.	#91412	C & C Press
1 Huebsch Collar Form		#3814	
1 Pros. Folding Table with Iron Stand			
1 "	825 P. O.	#91755	Sleeve Press
1 "	825 P. O.	#91754	Sleeve Press

.....

620

## Wearing Apparel Unit

1 Pros.	454 P. C.	#91493	Wearing App.
1 "	219 P. O.	#91989	Pony Press
1 "	219 P. O.	#101734	Pony Press

.....

## Wearing Apparel Unit

1 Pros.	454 P. C.	#91433	Wearing App.
1 "	219 P. O.	#91666	Pony Press
1 "	219 P. C.	#101735	Pony Press
1 "	165 P.	#2-59386	Wearing App.
1 "	165 P.	#2-608999	Wearing App.
1 "	165 P.	#2-61160	Wearing App.
1 "	172 K.	#2-57475	Kent Good Press

.....

2. The entry of this order shall be without prejudice to any of the rights of Harry W. Cline, trustee herein, and of Harry Koplin, Budget Launderers, Inc., and Arthur Kaplan in connection with the petition for turn-over order filed herein by said trustee on December 22, 1941, which matter is still pending.

Enter:

Archie H. Cohen,

Referee in Bankruptcy.

621 And afterwards, to wit, on the 1st day of September, A. D. 1943, being one of the days of the regular July term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Martin Ward, Referee in Bankruptcy, appears the following entry, to wit:

622 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—76517) • •

### ORDER

At Chicago, Illinois, in said District, Before Referee Archie H. Cohen, Dated: September 1, 1943

This cause coming on to be heard on the Petition of Harry W. Cline, Trustee herein, for leave to employ additional counsel, and it appearing to the Court that the Trustee's present attorney, Russell J. Topper, has been inducted into the armed forces of the United States and that the Trustee will require additional legal counsel, and it further appearing to the Court that said Trustee desires to employ Simon H. Alster as his additional attorney herein, and said attorney has submitted the necessary affidavit, averring that he does not represent the bankrupt or any interest adverse to the Trustee or to the creditors of this estate, and the Court being fully advised in the premises, Now Therefore,

It Is Ordered, Adjudged And Decreed that Harry W. Cline, Trustee herein, be and he is hereby, authorized and empowered to employ Simon H. Alster as his additional attorney herein, to represent him as such Trustee herein

in all matters pertaining to the administration of this estate, the matter of compensation to said attorney for his services to await the further order of this Court.

Enter:

Martin Ward,

*Referee in Bankruptcy in  
Absence of Archie H.  
Cohen.*

623 And afterwards, to wit, on the 1st day of September, A. D. 1943, being one of the days of the regular July term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge appears the following entry, to wit:

624 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—76517)

### FINDINGS.

1. Gold Medal Laundries, Inc., herein referred to as "Gold", by its trustee, in a turn-over proceeding seeks recovery of Harry Koplin, Arthur Kaplan and Budget Launderers, Inc., respondents herein, of possession of the improved realty located at 2621-31 West Chicago Avenue, Chicago, Illinois, approximately 20 laundry routes, (Rec. 68) customers lists, one heat reclaimer, (Rec. 67) 2 water softeners (Rec. 67), and the equities in the laundry machinery and equipment located at the aforesaid address.

2. Strand Family Laundry Company, herein referred to as "Strand", on and for a period of five years prior to August 30, 1939, was in possession of and operated a general laundry business at the aforesaid address (Rec. 5).

3. "Strand" on and before August 30, 1939 owned and possessed the assets sought by the trustee in these turn-over proceedings (Resp. Exhibit 1, Rec. 66).

4. The entire capital stock issued by "Strand" was owned in equal shares by Samuel H. Millman and Samuel F. Millman, nephew and uncle respectively. (Rec. 5, 6, 37, 38, 97)

625 5. Robert J. Millman, a brother of Samuel H. Millman and nephew of Samuel F. Millman, was the attorney for "Strand" (Rec. 5).



6. In August of 1939, by voluntary petition in bankruptcy, the process of liquidation of "Strand" was commenced in the United States District Court, for the Northern District, Eastern Division, cause No. 71297. (Rec. 15, Resp. Exhibit 1; Trustee's Exhibit 13.)

7. Prior to the receiver's sale in the "Strand" bankruptcy on August 30, 1939, Robert J. Millman conceived (Rec. 65) of a plan to acquire for the Millmans at the receiver's sale the assets of "Strand" through Maurice Ginsburg, a close personal friend and client of Robert Millman (Rec. 17) and Max Heiman, the brother-in-law of Samuel F. Millman (Rec. 57).

8. The plan of reacquisition required Maurice Ginsburg and Max Heiman to purchase in behalf of the Millmans the assets of "Strand" at the receiver's sale with funds located by Ginsburg; that the bid would be in the vicinity of \$4,000.00; that thereafter the Millmans would organize a new Illinois corporation to be known as "Gold Medal Laundries, Inc." to purchase these assets of "Strand" for sixty-one hundred (6100.00) dollars payable \$60.00 weekly until fully paid; that upon payment in full, Ginsburg and Heiman were to execute a bill of sale to these assets to "Gold". (Rec. 15, 16, 17, 19, 20, 24, 65)

9. On August 30, 1939, pursuant to plan, Maurice Ginsburg and Max Heiman with money advanced by the former purchased the assets of "Strand" at the receiver's sale conducted before Referee Wallace Streeter for Three Thousand dollars (\$3,000.00) and the assumption of 626 prior wage claims (Rec. 81, 344; Trustee's Exhibit 13).

10. On September 7, 1939, pursuant to plan, the Millmans caused the organization of the bankrupt "Gold" as an Illinois corporation with a total issue of one hundred fifty shares capital stock owned in equal shares by Samuel H. Millman and Samuel F. Millman. (Rec. 4, 53, 129)

11. On September 7, 1939, pursuant to plan, after "Gold" was organized, it entered into a purchase agreement with Maurice Ginsburg wherein "Gold" agreed to pay Ginsburg the sum of \$6100.00 for all of the assets acquired by him at the "Strand" bankruptcy sale on August 30, 1939, payable \$60.00 weekly until paid in full; that upon payment in full Ginsburg would execute and deliver to "Gold" a bill of sale covering the assets involved herein. (Rec. 24, 65, 120, 121)

12. On September 7, 1939 "Gold" entered into pos-

session of the laundry and the improved premises at 2621-31 West Chicago Avenue, Chicago, Illinois, and thereafter conducted and operated a general laundry business continuously up to June 12, 1940. (Rec. 5, 175, 176)

13. "Gold" fully performed each and every covenant and promise under its purchase agreement with Ginsburg and had at no time defaulted in a single weekly payment of \$60.00. (Rec. 27, 32, 121, 359, 363)

14. On June 12, 1940, Harry Koplin and Arthur Kaplan his brother-in-law and attorney, "kicked" or "threw out" "Gold" and seized all of its property and assets at the aforesaid address. (Rec. 175, 176)

15. The ouster of "Gold" and the seizure of its assets was accomplished without resistance from its stockholders because Harry Koplin had on June 12, 1940 and prior thereto acquired through Arthur Kaplan and Joseph Feller, his attorney and employee, respectively, all of the issued capital stock of "Gold", and removed Samuel F. Millman from the "Gold" organization by the payment of \$3,000.00 to Samuel H. Millman and \$5,000.00 to Samuel F. Millman. (Rec. 35, 36-41, 132-134; Trustee's Exhibit 11, Exhibit 6 (1/20/42))

16. That neither Harry Koplin nor any of the respondents have paid or caused to be paid to "Gold" any consideration for the possession of the realty and the assets and property seized by them on June 12, 1940 at 2621-31 W. Chicago Avenue, Chicago, Illinois. (Rec. 238, 175, 176)

17. That during its period of operation "Gold" incurred outstanding and unpaid debts in the sum of approximately Fifteen Thousand (\$15,000.00) Dollars of which federal and state social security taxes and property taxes amount to approximately Seven Thousand (\$7,000.00) Dollars.

18. That immediately after the ouster of "Gold" and seizure of its assets, respondents discharged old employees, hired new ones, set up new books and records, changed the name of the company to "Chicago Laundry Building Corporation", then to "Unique Launderers" and then to the "Budget Launderers". (Rec. 138-140, incl. 193; Trustee's Exhibit 5 (1/20/42).)

19. That on June 12, 1940 Harry Koplin after acquiring all of the capital stock of "Gold" purchased of Ginsburg all of his right, title and interest in and to the

assets in question for the sum of \$3900.00, after an allowance of a credit of all of the moneys paid by "Gold" under its contract of purchase with Ginsburg (27,363; Trustee's Exhibit 14).

20. That on March 7, 1940 Harry Koplin through Arthur Kaplan agreed in writing to purchase all of the right, title and interest of the First United Finance Corporation in and to the improved realty located at 2621 West Chicago Avenue, Chicago, Illinois, for \$21,000.00 payable in installments with final payment due on or before September 7, 1942. (Trustee's Exhibit 3 (1/20/42))

21. That on March 7, 1940 the interest of First United Finance Corporation in the improved realty at the aforesaid address consisted of a special commissioner's deed thereto which by agreement of parties was held as security for the repayment of the moneys loaned by the First United to "Strand" to reacquire the realty at a foreclosure sale thereof in April of 1937 by the Chicago Title & Trust Company as trustee. (Rec. 6-14; Trustee's Exhibit 1a, 1b, 2 3, 4)

22. That neither on June 12, 1940, the date of the dispossession of "Gold" nor at any time thereafter, had the respondents completed the payments under their agreement of March 7, 1940 with the First United Finance Corporation (Rec. 165, 166).

629 23. That the First United Finance Corporation did not on June 12, 1940, nor at any time prior or subsequent thereto transfer or cause to be transferred any of its right, title and interest in the realty to respondents (Rec. 166, 327).

24. That neither on June 12, 1940 nor at any time had respondents acquired any legal or equitable interest in the realty in question. (Rec. 166, 327.)

### Conclusions.

1. That the respondents on June 12, 1940 without any interest, legal or equitable, in the improved realty located at 2621-31 W. Chicago Avenue, Chicago, Illinois, unlawfully ousted, dispossessed "Gold" of said premises and wrongfully retain possession thereof against the rights of the trustee in bankruptcy.

2. That the respondents on June 12, 1940 unlawfully

seized Twenty (20) laundry routes, (1) heat reclaimer, Two (2) water softeners, and all of the equities in the laundry machinery and equipment on the premises at 2621-31 W. Chicago Avenue, Chicago, Illinois, purchased by "Gold" under its purchase agreement of September 7, 1939 with Maurice Ginsburg.

3. That respondents should be directed to turn over to the trustee in bankruptcy possession of the aforesaid premises and the specific property hereinbefore set forth.

Barnes,  
Judge.

September 1, 1943.

630 And afterwards, to wit, on the 9th day of September, A. D. 1943, being one of the days of the regular September term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge appears the following entry, to wit:

631 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption--76517) • •

### TURNOVER ORDER.

This matter coming on this day to be heard upon the motion of Harry W. Cline, Trustee in Bankruptcy herein, for the entry of an order in accordance with the memorandum decision of this Court, dated September 1, 1943, on the Petition of the Trustee to review the Referee's Order of January 4, 1943, and in accordance with the Findings of Fact and Conclusions of Law filed simultaneously with said memorandum decision of September 1, 1943, and it appearing to the Court that due notice of this motion has been served upon all parties in interest, and the Court being fully advised in the premises,

Now, Therefore, It Is Ordered, Adjudged And Decreed, As Follows:

1. That the Order of the Referee Archie H. Cohen, dated January 4, 1934, be, and the same is hereby, reversed.

2. That Harry Koplin, Arthur Kaplan, and Budget Launderers, Inc. (formerly Chicago Laundry Building Cor-

poration and Unique Launderers), be, and they are hereby, ordered and directed to turn over to Harry W. Chinc, 632 Trustee in Bankruptcy herein, within 15 days from the date hereof, the following property which they unlawfully took from the possession of the Gold Medal Laundries, Inc., the Bankrupt herein:

(a) Possession of the improved realty located at 2621-31 W. Chicago Avenue, Chicago, Illinois, and legally described as follows:

Lots 6-10, inclusive, in the Resubdivision of Block 3 (except the East 67 feet thereof) in Wright and Webster's Subdivision of the Northeast Quarter of Section 12, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

(b) Possession of the property unlawfully seized by said parties on June 12, 1940, consisting of 20 laundry routes, 1 heat reclaimer, 2 water softeners, and all of the equities in the laundry machinery and equipment on the premises at 2621-31 W. Chicago Avenue, Chicago, Illinois, purchased by Gold Medal Laundries, Inc. under its purchase agreement of September 7, 1939, with Maurice Ginsburg.

Dated, at Chicago, Illinois, this 9th day of September, A. D. 1943.

Enter:

Barnes,  
Judge.

633 And afterwards, on, to wit, the 24th day of September, A. D. 1943 came the Appellants by their attorneys and filed in the Clerk's office of said Court a certain Notice of Appeal in words and figures following, to wit:



634 IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois,

Eastern Division.

In the matter of

Gold Medal Laundries, Inc.,

a corporation,

Bankrupt.

No. 6517.

NOTICE OF APPEAL TO CIRCUIT COURT OF  
APPEALS

(Filed Sept. 24, 1943.)

Notice Is Hereby Given that Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., formerly known as Chicago Laundry Building Company, a corporation, and Unique Launderers, Inc., hereby appeal to the Circuit Court of Appeals, for the Seventh Circuit,

(a) From that certain memorandum order entered in this cause on October 22, 1942, by the Honorable John P. Barnes, Judge of the United States District Court, which order reversed that certain order entered by the Honorable Archie H. Cohen, Referee in Bankruptcy, on June 24, 1942, wherein the said referee dismissed for want of summary jurisdiction that certain petition of Harry W. Cline, Trustee in Bankruptcy herein, for a turn-over order against the parties above named;

(b) From that certain turn-over order entered in this cause on September 9, 1943, by the Honorable John P. Barnes, Judge of the United States District Court, 635 which order reversed that certain order entered by the Honorable Archie H. Cohen, Referee in Bankruptcy, on January 4, 1943, wherein the said referee dismissed on the merits that certain petition of Harry W. Cline, Trustee in Bankruptcy herein; said order dated September 9, 1943, entered by the Honorable John P. Barnes, Judge of said court, herein appealed from, directed Harry Koplin, Arthur S. Kaplan and Budget Launderers, Inc., formerly known as Chicago Laundry Building Company, a corporation, and Unique Launderers, Inc.,

to turn over to said trustee in bankruptcy, within fifteen (15) days from the date of said order, certain property in said order described.

J. H. Schwartz,  
Edward A. Cooper,  
Norman H. Nachman,  
105 West Monroe Street,  
Chicago, Illinois,  
Schwartz and Cooper,  
105 West Monroe Street,  
Chicago, Illinois,

*Attorneys for Harry Koplin, Arthur  
S. Kaplan, and Budget Launder-  
ers, Inc., Respondents-Appellants.*

636 And afterwards, on, to wit, the 21st day of October, A. D. 1943 came the Respondents-Appellants by their attorneys and filed in the Clerk's office of said Court a certain Statement of points in words and figures following, to wit:

637 IN THE DISTRICT COURT OF THE UNITED STATES  
• • (Caption—76517) • •

### RESPONDENTS-APPELLANTS' STATEMENT OF POINTS ON APPEAL.

Now come Arthur S. Kaplan, Harry Koplin and Budget-Launderers, Inc., respondents-appellants in the above entitled cause, by Schwartz and Cooper, their attorneys, and state that they rely upon the following points in the prosecution of their appeal from that certain order entered in the above entitled cause on October 22, 1942, by the Honorable John P. Barnes, Judge of the United States District Court, which said order reversed the Referee's order entered June 24, 1942, and concluded that respondents had waived their objections to the summary jurisdiction of the bankruptcy court:

1. The District Court erred in reversing the order of the Referee, entered June 24, 1942, wherein the Referee sustained the motion of respondents to dismiss the trustee's petition for turn-over order, because of lack of summary jurisdiction.

2. The District Court erred in failing to conclude that respondents were adverse claimants, having been in actual, exclusive, physical possession of the property in question for fifteen months prior to the bankruptcy.

3. The District Court erred in failing to conclude 638 that the summary jurisdiction of the bankruptcy court may be challenged at any time prior to the entry of an order.

4. The District Court erred in failing to conclude that respondents challenged the summary jurisdiction of the bankruptcy court in apt time.

5. The District Court erred in concluding that respondents waived their objections to the summary jurisdiction of the bankruptcy court.

6. The District Court erred in failing to affirm the Referee's order of June 24, 1942, which dismissed the trustee's petition for lack of summary jurisdiction.

Appellant's respondents rely upon the following points in the prosecution of their appeal from that certain order dated September 9, 1943, entered by the Honorable John P. Barnes, Judge of the United States District Court, which said order reversed the Referee's order of January 4, 1943, and directed said respondents to turn over certain property to the trustee in bankruptcy:

1. The District Court, by its order of September 9, 1943, erred in reversing the order of the Referee, dated January 4, 1943.

2. The District Court, by its order of September 9, 1943, erred in directing respondents to turn over the property therein specified, to the trustee.

3. The District Court erred in failing to affirm the order of the Referee, dated January 4, 1943, wherein the Referee denied the trustee's petition for turn-over order on the merits.

639 4. The District Court erred in concluding, as a matter of law, (a) that respondents, on June 12, 1940, were without any interest, legal or equitable, in the real estate located at 2621-31 West Chicago Avenue, Chicago, Illinois; (b) that respondents unlawfully ousted and dispossessed the bankrupt corporation of said premises; (c) that respondents wrongfully retain possession thereof against the rights of the trustee.

5. The District Court erred in concluding as a matter

of law, that respondents, on June 12, 1940, unlawfully seized twenty laundry routes, one heat reclaimer, two water softeners, and all of the equities in the laundry machinery and equipment on the premises at 2621-31 West Chicago Avenue, Chicago, Illinois, purchased by the bankrupt corporation on September 7, 1939, from Maurice Ginsburg.

6. The District Court erred in concluding as a matter of law that respondents should be directed to turn over to the trustee possession of the aforesaid premises and property.

7. The District Court erred, under the law, in failing to accept the findings of the Referee included in the Referee's order of January 4, 1943.

8. The District Court erred in failing to conclude that the Referee's findings, which were made part of the Referee's order of January 4, 1943, were fully supported by the evidence.

9. The District Court erred in finding that the bankrupt corporation fully performed each and every covenant and promise under its purchase agreement with Ginsburg and that it had not defaulted in its weekly payments.

640 10. The District Court erred in finding that on June 12, 1940, Harry Koplin and Arthur Kaplan "kicked" or "threw out" the bankrupt corporation and seized all of its property and assets at 2621-31 West Chicago Avenue, Chicago, Illinois.

11. The District Court erred in finding that the alleged ouster of the bankrupt and the alleged seizure of its assets was accomplished without resistance from its stockholders, because Harry Koplin had, on June 12, 1940, and prior thereto, acquired, through Arthur Kaplan and Joseph Feller, his attorney and employee, respectively, all of the issued capital stock of the bankrupt, and allegedly removed Samuel F. Millman from the bankrupt corporation by the payment of \$3000.00 to Samuel H. Millman and \$5000.00 to Samuel F. Millman.

12. The District Court erred in finding that neither Harry Koplin nor any of the respondents have paid or caused to be paid to the bankrupt any consideration for the possession of the realty and the assets and property of the bankrupt allegedly seized by them on June 12, 1940.

13. The District Court erred in finding that during the period of its operation the bankrupt incurred outstanding and unpaid debts in the sum of approximately \$15,000.00, of which Federal and State Social Security Taxes and property taxes amount to approximately \$7,000.00.

14. The District Court erred in finding that immediately after the alleged ouster of the bankrupt and the alleged seizure of its assets, the respondents discharged old employees, hired new ones, set up new books and records and changed the name of the company.

641 15. The District Court erred in finding that on June 12, 1940, Harry Koplin, after allegedly acquiring all of the capital stock of the bankrupt purchased from Ginsburg all of his right, title and interest in and to the assets and property involved herein for the sum of \$3900.00, after allowing a credit for all moneys paid by the bankrupt to Ginsburg.

16. The District Court erred in finding that Harry Koplin, through Arthur Kaplan, agreed to pay the First United Finance Corporation the final payment due under its purchase contract with said First United Finance Corporation on or before September 7, 1942.

17. The District Court erred in finding that on March 7, 1943, the interest of the First United Finance Corporation in the improved realty consisted of a special commissioner's deed thereto, which, by agreement of the parties, was held as security for the repayment of the moneys loaned by the First United Finance Corporation to the Strand Family Laundry.

18. The District Court erred in finding that respondents have not completed their payments under their agreement of March 7, 1940, with the First United Finance Corporation.

19. The District Court erred in finding that neither on June 12, 1940, nor at any time had respondents acquired any legal or equitable interest in the realty in question.

20. The District Court erred in failing to find that the First United Finance Corporation had failed to deliver good title to the realty in question to respondents as it was required to do before respondents were required to



make payment of the final installment due, under its 642 contract with said First United Finance Corporation.

21. The District Court erred in failing to dismiss trustee's petition for review of the Referee's order entered January 4, 1943.

J. H. Schwartz;

E. A. Cooper,

Norman H. Nachman,

105 West Monroe Street,

Chicago, Illinois,

Schwartz and Cooper,

105 West Monroe Street,

Chicago, Illinois,

*Attorney for respondent-appellants.*

Service of respondents-appellants' foregoing Statement of Points on Appeal is hereby acknowledged this 20th day of October, 1943.

Russell J. Topper and

Simon H. Alster,

*Attorney for Harry W. Cline,  
trustee in bankruptcy.*

643 And afterwards on, to wit, the 24th day of September, A. D. 1943; came the Appellants by their attorneys and filed in the Clerk's office of said Court a certain SUPERSEDEAS BOND ON APPEAL in words and figures following; to wit:

644 Know All Men by These Presents: ☉

That we, Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., as principals, and the deposit with the Clerk of the District Court of the United States, for the Northern District of Illinois, Eastern Division, of the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) represented by the following treasury bonds of the United States of America:

Bond #45428-J, 2% Treasury Bond of 1951-53, in the face amount of Five Hundred Dollars (\$500.00), with twenty (20) interest coupons attached thereto;

Bond #107759-K, 2% Treasury Bond of 1951-53, in the

face amount of One Thousand Dollars (\$1,000.00), with twenty (20) interest coupons attached thereto;

Bond #107760-L, 2% Treasury Bond of 1951-53, in the face amount of One Thousand Dollars (\$1,000.00), with twenty (20) interest coupons attached thereto;

Bond #3105-E, 2% Treasury Bond of 1951-53, in the face amount of Ten Thousand Dollars (\$10,000.00), with twenty (20) interest coupons attached thereto;

as security, are held and firmly bound unto Harry W. Cline, trustee in bankruptcy of Gold Medal Laundries, Inc., case No. 76517, in the full and just sum of Twelve Thousand Five Hundred Dollars (\$12,500.00); to be paid to the said Harry W. Cline, trustee in bankruptcy aforesaid, his attorneys, or successors in trust; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. Sealed with our seals and dated this 23rd day of September, in the year of our Lord, One Thousand Nine Hundred Forty-three.

Whereas, lately at a session of the District Court of the United States, for the Northern District of Illinois, Eastern Division, in a suit pending in said court between Harry W. Cline, trustee in bankruptcy, of Gold Medal Laundries, Inc., bankrupt, case No. 76517, and Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., orders were entered against Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., and the said Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., having filed in the clerk's office of the said District Court, notice of appeal to the United States Circuit Court of Appeals, for the Seventh Circuit, to reverse the orders of the aforesaid suit in the United States Circuit Court of Appeals, for the Seventh Circuit, to be holden at Chicago within forty (40) days from the date hereof,

Now, the condition of the above obligation is such that if the said Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., shall satisfy the said orders in full together with costs, interest and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, or if they shall satisfy in full such modification of the orders and such costs, interest and damages as the

Appellate Court may adjudge and award, then the above obligation to be void; otherwise to remain in full force and virtue.

646 Sealed and delivered in presence of:

Arthur S. Kaplan (Seal)

Arthur S. Kaplan

Harry Koplin (Seal)

Harry Koplin

Budget Launderers, Inc.,

By Ben Rosenfield,

President.

(Seal)

Attest:

M. L. Yarosh,

Assistant Secretary.

Approved by: Sept. 24, 1943,

Barnes,

Judge of the United States  
District Court, for the  
Northern District of Illi-  
nois, Eastern Division.

647 And afterwards, to wit, on the 24th day of September, A. D. 1943, being one of the days of the regular September term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge appears the following entry, to wit:

648 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—76517)

### ORDER.

This matter coming on to be heard upon the motion of Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., respondents to that certain petition for turn-over order filed in this cause by Harry W. Cline, trustee herein, to stay and suspend any further proceedings by said trustee to enforce that certain order entered herein on September 9, 1943, directing the aforesaid parties to turn over certain property to said trustee within fifteen (15) days from the date of the entry of said order until

the determination of the appeal from said order by the United States Circuit Court of Appeals, for the Seventh Circuit,

It appearing to the court that the aforesaid parties have this day filed their notice of appeal to the Circuit Court of Appeals, for the Seventh Circuit, and also that this court has heretofore fixed the amount of a supersedeas bond at the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00),

And it further appearing to the court that the aforesaid parties, by their counsel, have submitted a supersedeas bond to this court, this day in open court, in the amount of Twelve Thousand Five Hundred Dollars (\$12,500.00), with good and sufficient security, which was approved by the court, due notice of said motion having been given to counsel for the trustee, and the court being fully advised in the premises,

Now, Therefore, It Is Ordered that all further proceedings in this court in connection with the enforcement of that certain turn-over order entered by this court on September 9, 1943, be, and they hereby are suspended and stayed until the determination of said appeal by the United States Circuit Court of Appeals, for the Seventh Circuit.

/s/ Barnes,  
Judge.

Dated: September 24, 1943.

650 And afterwards, to wit, on the 12th day of October,

A. D. 1943, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge appears the following entry, to wit:

651 IN THE DISTRICT COURT OF THE UNITED STATES.

(Caption—76517)

### ORDER.

This matter coming on to be heard upon Stipulation dated October 7, 1943, entered into between Harry W. Cline, trustee herein, appellee, by Simon H. Alster, his attorney, and Arthur S. Kaplan, Harry Koplin and Budget Laun-

derers, Inc., appellants, by Schwartz and Cooper, their attorneys, and the court having examined said Stipulation and being fully advised in the premises,

Now, Therefore, It Is Ordered that in connection with the notice of appeal filed herein on September 24, 1943, said appellants shall not be required to file with their Designation of Record on appeal two (2) copies of the reporter's transcript of the evidence, and it shall be sufficient if said appellants file only one (1) copy of the reporter's transcript of the entire evidence as certified by Archie H. Cohen, Referee in Bankruptcy.

It Is Further Ordered that the Clerk of this court be and he hereby is authorized and directed to deliver the following original exhibits introduced in evidence before said Referee in Bankruptcy to the United States Circuit

Court of Appeals for the Seventh Circuit in connection 652 with the said notice of appeal, and it shall not be necessary for said appellants to file with their Designation of Record on appeal copies of said exhibits:

Respondent's Exhibit 1—Inventory of Maurice Klein, Receiver of Strand Family Laundry Co., Bankrupt.

Trustee's Exhibit 2—Letter on stationery of First United Finance Corporation dated April 17, 1937, signed by Irving S. Berman.

Trustee's Exhibit 3—Letter of First United Finance Corporation dated June 29, 1937, addressed to Strand Family Laundry Co.

Trustee's Exhibit 4—Special Commissioner's Deed from Gerald R. Gokman, Special Commissioner, to First United Finance Corporation, dated November 4, 1939.

Trustee's Exhibit 5—Certified copy of corporate resolution of Gold Medal Laundries, Inc., signed by R. Kordine, Secretary.

Trustee's Exhibit 6—Balance sheet of Gold Medal Laundries, Inc., as of March 31, 1940.

Trustee's Exhibit 7—Letter dated January 23, 1940, addressed to Arthur S. Kaplan.

Trustee's Exhibit 8—Commitment for loan dated November 21, 1939, addressed to Gold Medal Laundries, Inc., signed by Harry Koplin.

Trustee's Exhibit 9—Agreement dated March 6, 1940, between Harry Koplin, Gold Medal Laundries, Inc., and Arthur S. Kaplan.



Trustee's Exhibit 10—Receipt dated March 6, 1940, signed by Arthur S. Kaplan.

Trustee's Exhibit 11—Agreement dated June 14, 1940, between Sam H. Millman, and Joseph Feller.

Trustee's Exhibit 12—Receipt dated June 14, 1940, signed by Arthur S. Kaplan.

Trustee's Exhibit 13—Bill of Sale from Maurice Klein, Receiver of Strand Family Laundry Co., Bankrupt, to Maurice A. Ginsburg and Max Heiman.

653 Trustee's Exhibit 14—Power of Attorney and Bill of Sale, both signed by Maurice A. Ginsburg.

Trustee's Exhibit 1 as of January 20, 1942—Letter from Secretary of State of the State of Illinois dated May 8, 1940, addressed to Kaplan & Rosenfield.

Trustee's Exhibit 1a as of January 20, 1942—Receipt and statement dated March 20, 1937, of First United Finance Corporation.

Trustee's Exhibit 2 as of January 20, 1942—Stock certificate No. 1 of Gold Medal Laundries, Inc., representing 37 shares, dated September 11, 1939, issued to S. I. Arno-  
polin, endorsed in blank.

Trustee's Exhibit 2A as of January 20, 1942—Stock certificate No. 2 of Gold Medal Laundries, Inc., representing 37 shares, dated September 11, 1939, issued to S. I. Arno-  
polin, endorsed in blank.

Trustee's Exhibit 2B as of January 20, 1942—Stock certificate No. 5 of Gold Medal Laundries, Inc., representing 1 share, dated September 11, 1939, issued to R. Kordine, endorsed in blank.

Trustee's Exhibit 2C as of January 20, 1942—Stock certificate No. 3 of Gold Medal Laundries, Inc., representing 37 shares, dated September 11, 1939, issued to S. I. Arno-  
polin, endorsed in blank.

Trustee's Exhibit 2D as of January 20, 1942—Stock certificate No. 4 of Gold Medal Laundries, Inc., representing 37 shares, dated September 11, 1939, issued to S. I. Arno-  
polin, endorsed in blank.

Trustee's Exhibit 2E as of January 20, 1942—Stock certificate No. 6 of Gold Medal Laundries, Inc., representing 1 share, dated September 11, 1939, issued to Sam Kostman, endorsed in blank.

Trustee's Exhibit 3 as of January 20, 1942—Agreement dated March 7, 1940, signed by Arthur S. Kaplan and R. W. Frieder.

Trustee's Exhibit 4 as of January 20, 1942—Corporate charter issued by the State of Illinois to Chicago Laundry Building Co., dated May 10, 1940, being certificate No. 25948, and Articles of incorporation of Chicago Laundry Building Co.

654 Trustee's Exhibit 5 as of January 20, 1942—Corporate charter issued by the State of Illinois to Unique Launderers, Inc., dated January 16, 1941, being certificate No. 9163, and Articles of Amendment to the Articles of Incorporation of Unique Launderers, Inc.

Trustee's Exhibit 6 as of January 20, 1942—Agreement entered into August 2, 1940, between Chicago Laundry Building Company, by Arthur S. Kaplan and Sam F. Millman.

It Is Further Ordered that the exhibits hereinabove referred to shall be returned to the Clerk of this court upon the completion of said appeal.

Enter:

Barnes,  
Judge.

Dated: October 12, 1943.

655 And afterwards on, to wit, the 21st day of October, A. D. 1943 came the Respondents-Appellants by their attorneys and filed in the Clerk's office of said Court a certain Designation in words and figures following, to wit:

656 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption—76517) • •

DESIGNATION OF RECORD TO BE CONTAINED IN  
RECORD ON APPEAL.

Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., respondents-appellants in the above action, hereby designate the following portions of the record to be contained in the record on appeal to the Circuit Court of Appeals for the Seventh Circuit in the above entitled action:

1. — Involuntary petition for adjudication in bankruptcy, filed September 22, 1941.
2. Order of adjudication in bankruptcy by default, entered October 22, 1941.

3. Petition of trustee in bankruptcy for turn-over order, filed December 22, 1941.
4. Answer of Arthur S. Kaplan, Harry Koplin and Budget Launderers, Inc., respondents, filed January 2, 1942.
5. First amendment to trustee's petition for turn-over order, filed January 27, 1942.
6. Order restraining Harry Koplin, et al, from disposing of any assets of property, etc., until further order of court, entered February 13, 1942.
- 657 7. Motion of Arthur S. Kaplan, et al, to dismiss trustee's petition for turn-over order, filed April 10, 1942.
8. Order modifying and amending restraining order, entered May 12, 1942.
9. Special and limited appearance of Arthur S. Kaplan, et al, and motion of said respondents to dismiss trustee's petition for turn-over order, filed May 19, 1942.
10. Memorandum of opinion and order of Referee sustaining motion of respondents to dismiss trustee's petition for turn-over order for lack of summary jurisdiction, entered June 24, 1942.
11. Order extending time for trustee to file petition to review memorandum and order of Referee dated June 24, 1942, entered July 2, 1942.
12. Petition of trustee for review of Referee's order, filed July 15, 1942.
13. Certificate of Referee, filed July 16, 1942.
14. Order of Judge John P. Barnes, directing Referee to file additional information, entered September 1, 1942.
15. Additional certificate of Referee filed September 11, 1942.
16. Memorandum of opinion of Judge John P. Barnes reversing Referee's order of June 24, 1942, and remanding case to Referee for decision on merits, entered October 22, 1942.
17. Memorandum of opinion and order of Referee dismissing trustee's petition for turn-over order on the merits, entered January 4, 1943.
- 658 18. Order of Referee extending time for trustee to file petition for review of Referee's order of January 4, 1943, entered January 13, 1943.
19. Petition of trustee for review of Referee's order of January 4, 1943, filed January 29, 1943.

20. Certificate of Referee with reference to petition of trustee to review Referee's order of January 4, 1943, filed February 2, 1943.

21. Order of Referee modifying previous restraining order, entered July 20, 1943.

22. Order of Referee authorizing trustee to employ Simon H. Alster as additional counsel, entered September 1, 1943.

23. Findings of fact and conclusions of law of Judge John P. Barnes, entered September 1, 1943.

24. Order entered by Judge John P. Barnes reversing the Referee's order of January 4, 1943, and directing respondents to turn over certain property, entered September 9, 1943.

25. Notice of appeal to Circuit Court of Appeals, filed September 24, 1943.

26. The supersedeas bond, filed September 24, 1943.

27. Order approving supersedeas bond and staying proceedings pending appeal, entered September 24, 1943.

28. Order on stipulation that only one copy of reporter's transcript of evidence shall be filed and that the Clerk shall deliver original exhibits to the United States Circuit of Appeals, entered by Judge John P. Barnes October 12, 1943.

29. All of the exhibits specified in the order of Judge John P. Barnes, entered October 12, 1943.

30. The certified reporter's transcript of the evidence, filed July 15, 1942.

31. Statement of the points on which respondents-appellants intend to rely on this appeal.

32. This designation of the contents of the record on appeal and proof of service thereof.

J. H. Schwartz,

E. A. Cooper,

Norman H. Nachman,

105 West Monroe Street,

Chicago, Illinois,

Schwartz and Cooper,

105 West Monroe Street,

Chicago, Illinois,

*Attorneys for respondents-appellants.*

Service of the foregoing designation of the contents of the record and accompanying statement of points relied on

*Clerk's Certificate.*

by the respondents-appellants in this appeal is hereby acknowledged this 20 day of October, 1943.

*Attorneys for Harry W. Cline,  
trustee in bankruptcy.*

660 Northern District of Illinois } ss.  
Eastern Division

I, Roy H. Johnson, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with Designation filed in this Court in the cause entitled Gold Medal Laundries, Inc., a corporation No. 76517 as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 2nd day of November, A.D. 1943.

(Seal)

Roy H. Johnson,  
Clerk.



UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

I, Kenneth J. Carrick, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages contain a true copy of the printed record, filed on the ninth day of December, 1943, in:

Cause No. 8447.

In the Matter of

Gold Medal Laundries, Inc.,

Bankrupt.

Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., formerly known as Chicago Laundry Building Company, a Corporation and Unique Launderers, Inc.,  
*Appellants,*

*vs.*

Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.,

*Appellee,*

as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 27th day of June, A. D. 1944.

(Seal)

(signed) Kenneth J. Carrick,  
*Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.*



At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the twenty-eighth day of September, in the year of our Lord one thousand nine hundred and forty-three, and of our Independence, the one hundred and sixty-eighth.

In the Matter of  
Gold Medal Laundries, Inc.,  
Bankrupt.

Arthur S. Kaplan, Harry Koplin,  
and Budget Launderers, Inc.,  
formerly known as Chicago  
Laundry Building Company, a  
Corporation, and Unique Lau-  
nderers, Inc.,

*Appellants,*

8447  
vs.  
Harry W. Cline, Trustee in Bank-  
ruptcy of Gold Medal Laundries,  
Inc.,

*Appellee.*

Appeal from the Dis-  
trict Court of the  
United States for  
the Northern Dis-  
trict of Illinois,  
Eastern Division.

And, to-wit: On the third day of November, 1943, there was filed in the office of the Clerk of this Court, an appearance of counsel for Appellants, which said appearance is in the words and figures following, to-wit:

## UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

Cause No. 8447.

In Re Gold Medal Laundries, Inc., Bankrupt.

Arthur S. Kaplan, et al.,

*vs.*

Harry W. Cline, Trustee.

The Clerk will enter our appearance as counsel for  
Arthur S. Kaplan, et al., Appellants.

J. H. Schwartz,  
105 W. Monroe St.

E. A. Cooper,  
105 W. Monroe St.

Norman H. Nachman,  
105 W. Monroe St.

Endorsed: Filed November 3, 1943. Kenneth J. Car-  
rick, Clerk.

And afterwards, to-wit: On the eighteenth day of December, 1943, there was filed in the office of the Clerk of this Court, an appearance of counsel for Appellee, which said appearance is in the words and figures following, to-wit:

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

Cause No. 8447.

In the Matter of

Gold Medal Laundries, Inc.,

Bankrupt.

Arthur S. Kaplan, Harry Koplin and Budget Launderers,  
Inc.,

Appellants,

vs. *9*

Harry W. Cline, Trustee in Bankruptcy of Gold Medal  
Laundries, Inc.,

Appellee.

The Clerk will enter our appearance as counsel for Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc., Appellee.

Simon H. Alster,  
100 W. Monroe St.,  
Chicago, Ill.

Russell J. Topper,  
100 W. Monroe St.,  
Chicago, Ill.

Endorsed: Filed December 18, 1943. Kenneth J. Car-  
rick, Clerk.



And afterwards, to-wit: On the fourth day of April, 1944, the following further proceedings were had and entered of record, to-wit:

Tuesday, April 4, 1944.

Court met pursuant to adjournment.

Before:

Hon. Evan A. Evans, Circuit Judge.  
Hon. William M. Sparks, Circuit Judge.  
Hon. J. Earl Major, Circuit Judge.

In the Matter of  
Gold Medal Laundries, Inc.,  
Bankrupt.

Arthur S. Kaplan, Harry Koplin,  
and Budget Launderers, Inc.,  
formerly known as Chicago  
Laundry Building Company, a  
Corporation, and Unique Launderers, Inc.,

*Appellants,*

S447

vs.

Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.,

*Appellee.*

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

Now this day come the parties by their counsel, and this cause comes on to be heard on the transcript of the record and the briefs of counsel, and on oral argument by Mr. J. H. Schwartz, counsel for appellant, and by Mr. Simon H. Alster, counsel for appellee, and the Court takes this matter under advisement.

And afterwards, to-wit: On the twelfth day of April, 1944, there was filed in the office of the Clerk of this Court, the Opinion of the Court, which said opinion is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

• For the Seventh Circuit. •

No. 8447.

October Term, 1943, April Session, 1944.

In the Matter of  
GOLD MEDAL LAUNDRIES, INC.,  
Bankrupt.

ARTHUR S. KAPLAN, HARRY KOPLIN,  
and BUDGET LAUNDERERS, INC., formerly known as CHICAGO LAUNDRY BUILDING COMPANY, a Corporation, and UNIQUE LAUNDERERS, INC.,  
Appellants.

vs.

HARRY W. CLINE, Trustee in Bankruptcy of GOLD MEDAL LAUNDRIES, INC.,  
Appellee.

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

April 12, 1944.

Before EVANS, SPARKS and MAJOR, *Circuit Judges*.

MAJOR, *Circuit Judge*. Involved in this appeal are two orders of the District Court. One pertains to an order entered October 22, 1942, reversing an order theretofore entered by the referee which dismissed appellee's petition for a turn-over order because of lack of summary jurisdiction. The other appeal pertains to an order entered September 9, 1943, reversing an order theretofore entered by the referee which dismissed appellee's petition for a turn-over order on the merits.

We shall first consider the propriety of the court's order, concerning summary jurisdiction. For such purpose, a brief statement of the facts will suffice. The bankrupt corporation was organized on September 7, 1939, and engaged in the laundry business in Chicago, Illinois, up to June 12, 1940. An involuntary petition for adjudication in bankruptcy was filed on September 22, 1941. On December 22, 1941, the appellee (trustee) filed his petition directed at appellants for a turn-over order, in which he sought to recover for the bankrupt estate certain described personal and real property. Insofar as the matter of summary jurisdiction is concerned, there appears to be no point in relating the contentions of the respective parties as to the ownership of such property or the circumstances upon which their respective claims of ownership are predicated. This is so for the reason that there is no dispute but that appellants obtained possession of the property in question on June 12, 1940, fifteen months prior to the institution of bankruptcy. Furthermore, it is conceded by all parties, and so recognized by the lower court, that appellants are adverse parties.

On January 2, 1942, appellants by answer to the trustee's petition asserted their claim of adversity and that none of the property referred to in the petition ever belonged to the bankrupt. They prayed that an order be entered dismissing the petition and "for such other orders as to the court may seem meet." Testimony was heard by the referee on numerous occasions. On April 30, 1942, an oral motion was made before the referee to dismiss the petition on the ground that appellants were adverse claimants and that the court was without summary jurisdiction in the matter. On May 19, 1942, new counsel appeared for appellants, and by written motion challenged the court's jurisdiction to proceed in a summary manner and prayed that the trustee's petition be dismissed. Briefs were submitted to the referee on the jurisdictional question, and on June 24, 1942, the referee entered a memorandum of opinion and order sustaining the motion to dismiss the trustee's petition for lack of summary jurisdiction. On the trustee's petition for review of this order, the court reversed the referee's order and concluded that appellants had consented to jurisdiction. On re-reference, the referee was directed to decide the issue on the merits. On January 4, 1943, the referee filed his memorandum of

opinion and order dismissing the trustee's petition for a turn-over order on the merits. On September 9, 1943, upon the trustee's petition for review, the court again reversed the referee's order on the merits and directed appellants to turn over to the trustee the property in question.

With the concession that appellants were adverse claimants, with actual control and possession of the disputed property, it follows that the court was without summary jurisdiction. *Thompson v. Magnolia Petroleum Company*, 309 U. S. 478, 481. It has been held, however, that such jurisdictional question must be appropriately raised; otherwise, it will be deemed to have been waived or consented to. It is upon this basis that the trustee seeks an affirmance of the jurisdictional order appealed from.

It is settled that the jurisdictional defense embraces merely a procedural right and that it may be waived in the same manner as any other procedural privilege. *MacDonald v. Plymouth County Trust Company*, 286 U. S. 263, 267; *Harris v. Avery Brundage Co.*, 305 U. S. 160, 164. The fact that the defense may be waived, however, is of little consequence in the instant case. The question is whether appellants waived such defense. If so, it must be an implied waiver arising from the failure of appellants to raise the question in apt time.

The trustee places much reliance upon *In Re Murray*, 92 Fed. (2d) 612, and *In Re West Produce Corp.*, 118 Fed. (2d) 274. In the *Murray* case, this court held that an adverse party by his pleading and conduct had consented to jurisdiction. As shown by the opinion, however, the adverse party not only filed an answer to the petition upon the merits but voluntarily conveyed the property to the trustee to abide the outcome of the hearing. This fact alone, we think, is sufficient to distinguish that case from the instant one. In the *West* case, the court said: "An objection to a summary jurisdiction must be timely. It comes too late if first made after the Referee has issued his turn-over order. . . . We think it is also too late if first made at the time of submission for decision, after answer and a hearing on the merits." While the last sentence of this quotation furnishes support for the trustee's position, we think it is contrary to the weight of authority.

The case most nearly in point, according to our view, is



*Louisville Trust Co. v. Comingor*, 184 U. S. 18. There, the adverse party answered the petition for turn-over, and some five months later for the first time raised the jurisdictional question before the referee. The referee's holding that the question was not raised in apt time was sustained by the District Court. The action of the District Court was predicated upon an implied consent on the part of Comingor. As pointed out by the Circuit Court of Appeals (107 Fed. 898, 904): "But the district judge puts his conclusion upon the ground that the petitioner has acquiesced in the course pursued, by making response to the orders, asking to be relieved in the premises, and going into proof before the referee, and making stipulations concerning the proof on the reference." The Circuit Court reversed the District Court and held that the attack upon summary jurisdiction was sufficient. The Supreme Court affirmed, and in holding that the jurisdictional attack was timely pointed out that "he made his formal protest to the exercise of jurisdiction before the final order was entered." In *Galbraith v. Valley*, 256 U. S. 46, 50, the court said: "... The principle of the Comingor case has never been departed from in this court." In *In Re Bergström*, 1. Fed. (2d) 288, this court reversed a turn-over order of the District Court and held that the jurisdictional challenge was sufficient. On page 290, we said: "The question of procedure was raised at least ten days before the decision, and the right to proceed summarily was directly challenged." In *In Re Horgan*, 158 Fed. 774, it was held that the jurisdictional question raised before the entry of the final decree was sufficient, citing *Louisville Trust Company v. Comingor*, *supra*. Again, in *In Re White Satin Mills, Inc.*, 25 Fed. (2d) 313, it was held that the objection to summary proceeding was sufficient where made after the testimony was heard but prior to the entry of the referee's order.

We are of the view that appellants' objection to the summary procedure was raised in apt time and that the court by the order appealed from erroneously reversed the referee in this respect. Inasmuch as the cause must be reversed on this ground, there is no occasion for us to consider the other order appealed from, that is, the order on the merits of the case. In fact, it perhaps would be improper to do so, as such consideration might prove prejudicial to the rights of the parties in a plenary proceeding



which, as shown by the referee's report, is pending in another court.

The cause is reversed, with directions to sustain the order of the referee dismissing the trustee's petition for lack of summary jurisdiction.

Endorsed: Filed April 12, 1944. Kenneth J. Carrick, Clerk.

And on the same day, to-wit: On the twelfth day of April, 1944, the following further proceedings were had and entered of record, to-wit:

Wednesday, April 12, 1944.

Court met pursuant to adjournment.

Before:

Hon. Evan A. Evans, Circuit Judge.

Hon. William M. Sparks, Circuit Judge.

Hon. J. Earl Major, Circuit Judge.

In the Matter of

Gold Medal Laundries, Inc.,  
Bankrupt.

Arthur S. Kaplan, Harry Koplin,  
and Budget Launderers, Inc.,  
formerly known as Chicago  
Laundry Building Company, a  
Corporation, and Unique Launderers, Inc.,

*Appellants.*

8437-

vs.

Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.

*Appellee.*

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Illinois, Eastern Division, and was argued by counsel.

*Decree Reversing.*

On consideration whereof, it is ordered, adjudged and decreed by this Court that the order or decree of the said District Court entered October 22, 1942, and in this cause appealed from be, and the same is hereby, reversed, with costs, and that this cause be, and the same is hereby, remanded to the said District Court with directions to sustain the order of the referee dismissing the trustee's petition for lack of summary jurisdiction.

And afterwards, to-wit: On the twenty-fifth day of April, 1944, there was filed in the office of the Clerk of this Court, a Petition for Rehearing, which said Petition is in the words and figures following, to-wit:

IN THE  
**UNITED STATES CIRCUIT COURT OF APPEALS**  
FOR THE SEVENTH CIRCUIT

In the Matter of  
**GOLD MEDAL LAUNDRIES, INC.,**  
Bankrupt.

**ARTHUR S. KAPLAN, HARRY KOPLIN**  
and **BUDGET LAUNDERERS, INC.,**  
Appellants,

VS.

**HARRY W. CLINE, Trustee in Bankruptcy**  
of **Gold Medal Laundries, Inc.,**

Appellee.

Appeal from the District  
Court of the United  
States for the North-  
ern District of Illinois,  
Eastern Division.

Honorable  
John P. Barnes,  
Judge Presiding.

**PETITION OF APPELLEE FOR REHEARING.**

**RUSSELL J. TOPPER,**  
**SIMON H. ALSTER,**  
100 W. Monroe Street,  
Chicago 3, Illinois,  
*Counsel for Appellee.*

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IN THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT  
No. 8447

<p>In the Matter of <b>GOLD MEDAL LAUNDRIES, INC.,</b> Bankrupt.</p> <p><b>ARTHUR S. KAPLAN, HARRY KOPLIN</b> and <b>BUDGET LAUNDERERS, INC.,</b> Appellants,</p> <p style="text-align: center;">vs.</p> <p><b>HARRY W. CLINE, Trustee in Bankruptcy</b> of <b>Gold Medal Laundries, Inc.,</b> Appellee.</p>	<p>Appeal from the District Court of the United States for the North- ern District of Illi- nois, Eastern Division.</p> <p style="text-align: center;">—</p> <p>Honorable <b>John P. Barnes,</b> Judge Presiding.</p>
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**PETITION OF APPELLEE FOR REHEARING.**

Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc., Appellee, respectfully petitions this Honorable Court for a rehearing, and requests that oral argument be granted before the matters set forth in this Petition are determined.

**I.**

A material fact in Louisville Trust Co. v. Comingor, 184 U. S. 18 was incorrectly stated by this Court.

The Court stated in its opinion: "The case most nearly in point, according to our view, is Louisville Trust Co. v. Comingor, 184 U.S. 18. There, the adverse party an-



swered the Petition for Turn-over. . . . This is not the fact. There was no Petition for Turn-over filed in that case. As the Supreme Court said:

"Nor in this matter was any Petition by the Trustee, or by any other person, filed against Comingor to recover these sums, and the Orders were entered by the Referee on the record as it stood, so that there was no pretense whatever of a plenary suit in that Court, in form or in substance."

The Referee, on his own Motion, entered an *ex parte* rule to show cause on the Respondent to turn over to the Trustee certain moneys retained by him and paid to his counsel. As the Supreme Court said, the Respondent "did not come in voluntarily, but in obedience to peremptory orders."

In the oral argument we desired and intended to discuss the question of jurisdiction, and particularly *Louisville Trust Co. v. Comingor*, but the Court requested us to discuss the merits of the case. We feel that while the Court considered *Louisville Trust Co. v. Comingor* as decisive of the jurisdictional issue, a careful examination of that case will disclose its inapplicability.

In the *Comingor* case an assignment for the benefit of creditors had been made to Comingor as Assignee, pursuant to the Kentucky statute. The assignment was in process of administration in a Kentucky court and the Assignee was at all times subject to the orders and supervision of the County Court. An Involuntary Petition in Bankruptcy was filed against the Assignor. Adjudication followed, and the matter was referred to the Referee for administration. In the course of administration it came to the Referee's attention that the Assignee had, prior to the bankruptcy, paid some fees to himself and to his attorney. The Referee promptly, and without notice to or petition or application from any interested party, entered

an *ex parte* rule to show cause against the Assignee and his counsel to appear and show cause three days thereafter why he should not pay over to the Receiver the amount of commission and fees. Cominger responded that he had retained the money on account of his commissions as Assignee before the bankruptcy proceedings, and that he had relied on the fact that he would be entitled to more than that sum on final settlement; that he believed that the Court would allow at least said amount and that he was a person of no means; he had used said money from time to time, relying on the fact that it belonged to him and he had none of it left and that he was unable to pay said money into Court as he had no money or property of any kind. Cominger was not given a chance to file an Answer. An Order was entered against him in open court requiring him to appear and show cause within three days why he should not return the money. As the Supreme Court said, "He did not come in voluntarily but in obedience to peremptory orders, and that although he participated in the proceeding before the Referee, he had pleaded his claims in the outset."

In our case the Trustee asked leave of the Referee to file a Petition and the Respondents asked leave of Court to answer. There was no element of coercion. They had ample opportunity to either plead to the merits or contest the jurisdiction of the Court.

The Court indicates in its Opinion that *In re Murray*, 92 Fed. (2d) 612 (CCA 7th Cir.), is distinguishable from the instant case because the respondent voluntarily conveyed the property to the Trustee in Bankruptcy, to abide the outcome of the hearing. We submit that the conveyance to the Trustee in *In re Murray* was one without prejudice to the rights of the respondent. The Trustee was merely made a stake holder, pending the outcome of the case. The facts in *In re Murray* were that the Trustee filed a petition for an order on the respondent to show

cause why he should not reconvey certain land to the Trustee; why notes and mortgages executed by the Bankrupt to him should not be cancelled; and why, upon an accounting, the alleged debt should not be decreed to be satisfied and the property vested in the Trustee. As this Court stated in its Opinion, "To this petition Appellant filed an Answer on February 11, 1932, in which it did not question in any way the jurisdiction of the District Court. He denied that the Trustee was entitled to cancel the contract and the debt and to receive the land." At the same time, the respondent entered into a contract with the Trustee, as a part of which he conveyed the land to the Trustee under an agreement.

As we read the *Murray* case, it stands for the proposition that where an adverse claimant files an answer in a summary proceeding instituted by a bankruptcy trustee and proceeds to present all of his evidence at a hearing in such proceedings, he waives his right to a determination in a plenary suit, and must be held to have consented to the jurisdiction of the Bankruptcy Court.

## II.

The record shows that Appellants waived their right to object to the summary jurisdiction of the Court.

We believe this Court overlooked certain material portions of the Record which show that Appellants waived their objections to summary procedure. At a hearing held before the Referee on April 9, 1942, the Trustee's attorney made a motion to strike certain testimony of a witness of Appellants (Tr. 238). The following colloquy occurred:

"Mr. Topper (Attorney for the Trustee): I will renew my motion to strike the testimony of Mr. Arnopolin with respect to the judgment or the consideration for the judgment.

The Court: I will sustain that motion.

Mr. Rosenfield (Attorney for Respondents, Appellants here): I offer that evidence as a tender of proof to sustain this position, if the Court please: This man is one of the petitioning creditors in the petition upon which an adjudication was had. The adjudication rests, necessarily, upon the formal petition.

The Court: Is there a contest on the adjudication?

Mr. Rosenfield: We can't contest it. These are facts being brought out in this proceeding on the petition for turn-over order. It makes no difference where the facts are ascertained or when, for the first time, those facts are ascertained. If those facts are just ascertained now, and it is a question that goes to the entire jurisdiction of the Court, it can be raised at any time. It is a jurisdictional proposition.

The Court: Did you attack the jurisdiction? You have answered this petition, have you not?

Mr. Rosenfield: With the knowledge we had at that time.

The Court: I will sustain the motion of counsel for the Trustee.

Mr. Rosenfield: I would like leave to file a written motion and present argument on it.

The Court: All right. Let us go ahead. I will give you leave to do that.

Mr. Rosenfield: I think that is important enough to have that question determined before we proceed with anything else."

At an adjourned hearing on April 10, 1942, the Referee gave the Respondents (Appellants here) leave to file a Brief and Argument in support of a motion to dismiss Trustee's Petition for Turn-over. (Tr. 241).

At a hearing on April 23, 1942 the following colloquy occurred with reference to the Respondents' (Appellants here) Motion to Strike the Petition for want of jurisdiction (Tr. 242-243):

Mr. Rosenfield: I am withdrawing that Motion that was pending here.

The Court: All right. The record may show the motion is withdrawn.

Mr. Topper. (Attorney for the Trustee): More specifically, that is the motion of the Respondents.

The Court: It was a motion attacking the jurisdiction of the Court.

Mr. Rosenfield: That is right.

Mr. Topper: It is withdrawn and I am going to ask for a ruling on the Trustee's Motion to strike all the testimony of Mr. Arnopolin. Your Honor heretofore granted my motion.

Mr. Rosenfield: That is of record, and our offer of the evidence is also of record.

Mr. Topper: But there is no ruling of record.

Mr. Rosenfield: Yes, there is.

Mr. Topper: I asked the Court to withdraw the ruling until the petition was filed. The Petition was filed that same afternoon. Your Honor granted my motion to strike, and then it was agreed between counsel and the Court to withhold the ruling.

The Court: I don't recall that.

Mr. Topper: I will read the transcript (reading portion of transcript).

The Court: Well, in view of the motion this morning for leave to withdraw the motion to strike—is that it?

Mr. Topper (interrupting): To withdraw the petition of the respondents attacking the jurisdiction of the Court.

The Court: Was there a petition filed?

Mr. Rosenfield: There was just a motion filed.

The Court: Was there a written motion?

Mr. Topper: Yes.

The Court: Leave to withdraw the motion to strike the petition for want of jurisdiction, and I will reiterate the ruling on the motion of the trustee to strike the testimony of Mr. Arnopolin."



It is apparent that on April 9, 1942, the attorney for Appellants asked leave to file a written motion and argument attacking the jurisdiction of the Court and this after the Referee had informed him that he had answered the Petition. On April 23, 1942 counsel for Appellants expressly withdrew his motion attacking the jurisdiction of the Court. We submit that this voluntary and express withdrawal by Appellants of their motion to dismiss the petition for want of jurisdiction constituted a consent to permit the Court to continue to hear the matter on its merits.

### III

**The opinion indicates that Appellants raised the question of summary jurisdiction by their answer filed January 2, 1942. The answer does not raise that question.**

A reading of the Court's opinion indicates that the Court is under the impression that Appellants raised their objections to summary procedure by their Answer filed January 2, 1942. The opinion states: "On January 2, 1942 Appellants, by their Answer to the Trustee's Petition, asserted their claim of adversity and that none of the property referred to in the Petition ever belonged to the Bankrupt. They pray that an order be entered dismissing the Petition and for such other order as to the Court may seem meet."

We submit that the Answer of Appellants does not in any wise indicate an intention to contest the jurisdiction of the Court. We set forth below verbatim in numerical order every allegation of the Petition, and in numerical order also the answer of the Appellants to each and every allegation:

"Now comes Harry W. Clien, Trustee in Bankruptcy of Gold Medal Laundries, Inc., a Corporation, and respectfully represents unto this Court the following:

1. That on September 22, A. D. 1941, an involuntary petition in bankruptcy was filed herein against Gold Medal Laundries, Inc.; that thereafter an order of adjudication was entered herein, and on November 26, A. D. 1941, your petitioner was duly elected and appointed Trustee in Bankruptcy of the bankrupt herein, and that he is now the duly appointed, qualified and acting Trustee in Bankruptcy of Gold Medal Laundries, Inc., bankrupt herein.

1. *Answering Paragraph 1* of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

2. That the bankrupt herein was, on September 7, A. D. 1941, duly organized as a corporation under the laws of the State of Illinois to conduct the business of steam and general laundry at 2621 31 West Chicago Avenue, Chicago, Illinois, and did thereafter conduct and operate said business at the aforesaid address.

2. *Answering Paragraph 2*, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

3. That on or about August 15, A. D. 1939, the Strand Family Laundry Company, a Corporation, located at the same address where the business of the bankrupt was conducted, viz.: 2621-31 West Chicago Avenue, Chicago, Illinois, owned the fee title estate in the following described property:

Lots 7-10, inclusive, in the Resubdivision of Block 3 (except the East 67 feet thereof) in Wright and Webster's Subdivision of the Northeast Quarter of Section 12, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois;

that on or about, to-wit: August 15, A. D. 1939, the said Strand Family Laundry Company, a Corporation, filed a voluntary petition in bankruptcy in this Court.

and pursuant thereto Maurice Klein was duly appointed Receiver of all of the assets of the said bankrupt, including the property and real estate above described, and on, to-wit: August 30, A. D. 1939, said Receiver, pursuant to order of this Court, and in compliance with all the formal requirements of sale, sold all of the personal property and real estate of the Strand Family Laundry Company, a Corporation, including the real estate above described, to Maurice Ginsburg and Max Heiman for the sum of Three Thousand Dollars (\$3,000.00) and the assumption by said purchasers of all outstanding wage claims.

3. *Answering Paragraph 3* of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

4. That it was orally agreed and understood by and between the aforesaid purchasers, Maurice Ginsburg and Max Heiman, prior to their purchase of the assets of Strand Family Laundry Company, bankrupt, that a corporation would be organized to be known as Gold Medal Laundries, Inc., the bankrupt herein, and that said Maurice Ginsburg and Max Heiman would advance by a loan the funds or monies necessary to purchase all of the assets of the Strand Family Laundry Company, a Corporation, and would take title to said assets in their name or names for the sole purpose of securing repayment to themselves from Gold Medal Laundries, Inc., a bankrupt herein, of the said purchase price.

4. a) *Answering Paragraph 4* of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

b) Paragraph 4 of the petition is defective and should be stricken for the following reasons:

1) It fails to set forth the parties to the alleged oral agreement.

2) It fails to set forth the consideration for the alleged oral agreement.

3) The alleged oral agreement is contrary to the Statute of Frauds in such cases made and provided.

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5. That the Gold Medal Laundries, Inc., was thereafter organized on September 7, A. D. 1939, and did enter into and adopt the aforesaid oral agreement to pay the indebtedness to Maurice Ginsburg and Max Heiman at the rate of Sixty Dollars (\$60.00) weekly until fully satisfied; whereupon said purchasers were to reconvey all right, title and interest thereto to the Gold Medal Laundries, Inc.

5. *Answering Paragraph 5*, upon information and belief these respondents deny each and every allegation thereof and state that they are informed and therefore believe the facts to be that the sum of Sixty Dollars (\$60.00) paid sometimes weekly by Gold Medal Laundries, Inc., a corporation, to Maurice Ginsburg and Max Heiman was paid as and for a license to use the customers lists and laundry routes acquired by the said Maurice Ginsburg and Max Heiman.

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6. That the subject matter of the aforesaid agreement consisted of all of the assets and property involved in the sale and transfer by the Receiver, Maurice Klein, to Maurice Ginsburg and Max Heiman, such as the good-will, routes and customers' lists, the present market value of which is approximately Fifteen Thousand Dollars, (\$15,000.00); the equities in all of the machinery and equipment, furniture and trucks, and the equity in the realty located at 2621-31 West Chicago Avenue, Chicago, Illinois together with the fixtures annexed to the realty, such as heat, reclaimers, softeners, etc., the market value of which is approximately Fifteen Thousand Dollars (\$15,000.00).

6. *Answering Paragraph 6*, your respondents have no knowledge as to the subject matter of the purported agreement.

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7. That the Gold Medal Laundries, Inc., pursuant to the terms of the aforesaid conditional sales contract, paid or caused to be paid to Maurice Ginsburg and Max Heiman the weekly payments thereunder, and was not in default thereunder on or before the 12th day of June, A. D. 1940.

7. *Answering Paragraph 7*, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof, except as noted in Paragraph 5 above.

8. That on the 12th day of June A. D. 1940, Maurice Ginsburg and Max Heiman, allegedly sold and conveyed to Arthur S. Kaplan, for and in behalf of Harry Koplin, all of their right, title and interest, legal and beneficial, in and to the assets and property acquired by them from Maurice Klein in the method and manner hereinbefore described, notwithstanding the absence of any default or violation of the aforesaid conditional sales agreement between the Gold Medal Laundries, Inc., and Maurice Ginsburg and Max Heiman.

8. *Answering Paragraph 8*, these respondents admit that Arthur S. Kaplan purchased from Maurice Ginsburg and Max Heiman all of their right, title and interest acquired by the said Maurice Ginsburg and Max Heiman from the said Maurice Klein, as receiver; further answering, these respondents deny that they had any notice or knowledge of any conditional sales agreement by and between the Gold Medal Laundries, Inc., a corporation, and Maurice Ginsburg and Max Heiman.

9. That Harry Koplin, and his nominee and dummy, Arthur S. Kaplan, did on and before June 12, A. D. 1940, have knowledge of the existence of the aforesaid conditional sales agreement, and that the payments had been made thereunder in accordance therewith, and that no default had existed.

9. *Answering Paragraph 9*, these respondents expressly deny each and every allegation thereof.



10. That neither Harry Koplin, or his agent and dummy, Arthur S. Kaplan, nor did Maurice Ginsburg, notify or cause any notice to be given or served upon the creditors of the Gold Medal Laundries, Inc., of the sale to Harry Koplin and Arthur S. Kaplan, in accordance with the statutes of the State of Illinois in such cases made and provided.

10. *Answering Paragraph 10*, these respondents deny that they, or either of them, were required by statute to give or serve any notice of any kind upon creditors of Gold Medal Laundries, Inc., a corporation.

11. That on or about September 7, A. D. 1939, the Gold Medal Laundries, Inc., lawfully and rightfully entered into possession of the improved premises located at 2621-31 West Chicago Avenue, Chicago, Illinois, and thereafter conducted, operated and carried on at said location the business of steam and general laundry until on or about July 1, A. D. 1940.

11. *Answering Paragraph 11* of said petition, these respondents have no knowledge as to the allegations thereof and must therefore require the petitioner to make strict proof thereof.

12. That on or about June 12, A. D. 1940, Gold Medal Laundries, Inc., was lawfully and rightfully possessed of the aforesaid improved premises; that said corporation being so possessed, the respondent, "Budget Launderers, Inc.", also known as "Chicago Laundry Building Company, A Corporation" and "Unique Launderers, Inc.", by and through its duly authorized agents, representatives, servants and employees in its behalf, without any notice or demand therefor as required by law, unlawfully and wrongfully ousted and dispossessed the alleged bankrupt, The Gold Medal Laundries, Inc.

12. *Answering Paragraph 12*, these respondents deny each and every allegation thereof.

13. That the unlawful and wrongful ouster and dispossession hereinbefore described, and the acquisition of the assets and property of the Gold Medal Laundries, Inc., was conceived, formulated and executed pursuant to a plan of conspiracy of Harry Koplin and Arthur S. Kaplan, brother-in-laws, to defraud and cheat the creditors of the Gold Medal Laundries, Inc., of any and all rights, claims, assets and property thereof to satisfy in part or in full their just claims.

13. *Answering Paragraph 13*, these respondents deny each and every allegation thereof.

14. That pursuant to said plan of conspiracy, Arthur S. Kaplan, an attorney-at-law, first proposed to Samuel Millman and the officers of the Gold Medal Laundries, Inc., to combine with him in the fraudulent execution of a fictitious lease to be signed by the Gold Medal Laundries, Inc., as lessee, at a fixed rental, under a pre-date, involving the premises located at 2621-23 West Chicago Avenue, Chicago, Illinois; that the purpose and object of the aforesaid plan was to show a false and fraudulent default thereunder in order to bring about the immediate dispossession of the Gold Medal Laundries, Inc., to the aforesaid premises; that Samuel Millman and the officers and directors of the Gold Medal Laundries, Inc., refused to participate in this fraudulent plan and scheme proposed by said Arthur S. Kaplan; that Harry Koplin purchased or otherwise acquired from March 6 to June 14, A. D. 1940, in his name and in the name of his dummies or nominees, the entire ownership and control of the total issued capital stock of the Gold Medal Laundries, Inc.; then, contemporaneously therewith, said Harry Koplin created or caused to be created "The Chicago Laundry Building Company, A Corporation", organized under the laws of the State of Illinois which it thereafter, by amendments to its Articles of Incorporation, duly adopted and acquired the successive names of "Unique Launderers, Inc." and "Budget Launderers, Inc." for the express purpose of acquiring and stripping the Gold Medal Laundries,

Inc., of all of its assets without payment of its creditors' claims; that the stockholders of said "Budget Launderers, Inc." consist of Arthur S. Kaplan, who holds in his name ninety-eight per cent (98%) of the issued capital stock, Ben Rosenfield and Harold Director, attorneys-at-law and partners of Arthur S. Kaplan, hold the remaining two per cent (2%) of said stock; and that neither of the stockholders have at any time paid or caused to be paid any consideration to the "Budget Launderers, Inc." out of their individual funds and monies; that they hold such stock only as dummies and nominees of Harry Koplin; and that said "Budget Launderers, Inc." is distinctly a one-man corporation, completely owned, dominated and controlled by Harry Koplin, created solely for the purpose of acquiring all of the assets and property of the Gold Medal Laundries, Inc., and to defraud its creditors.

14. *Answering Paragraph 14*, these respondents deny each and every allegation thereof and state the facts to be as follows: Arthur S. Kaplan purchased the right, title and interest of Maurice Ginsburg and Max Heiman as above stated and entered into a contract to purchase the realty from the record title holder, the First United Finance Company, a corporation; he also acquired by purchase from the legal holders and record title owners all of the fixtures, machinery, apparatus and furniture then located in and upon the premises at 2621-31 West Chicago Avenue, Chicago, and that none of the property herein described, real or personal, equitable or legal, ever belonged to or was ever owned by Gold Medal Laundries, Inc., a corporation.

15. That pursuant to said fraudulent plan and conspiracy, as hereinbefore described, Harry Koplin, by the acquisition of the entire stock ownership and control of the alleged bankrupt, The Gold Medal Laundries, Inc., did control, paralyze and prevent any action of said corporation to protect itself against and prevent its wrongful ouster and dispossession from

the aforesaid improved premises and the unlawful acquisition of its assets and property.

15. *Answering Paragraph 15*, these respondents deny each and every allegation thereof.

16. That none of the respondents herein is the owner of the assets and property of the bankrupt corporation herein, namely: good-will, customers' lists, laundry routes, machinery, equipment, trucks, furniture and fixtures situated at 2621-31 West Chicago Avenue, Chicago, Illinois, and never acquired title or right to possession in and to any of said assets; that said assets have been and were the property of Gold Medal Laundries, Inc., bankrupt corporation, at the time the petition in bankruptcy was filed and should be turned over to the Trustee in Bankruptcy herein for the benefit of the creditors of this estate.

Wherefore, your petitioner prays that this Court enter an order directing Arthur S. Kaplan, Harry Koplin, "Budget Launderers, Inc.", also known as "Chicago Laundry Building Company, A Corporation" and "Unique Launderers, Inc.", to forthwith turn over to your petitioner the assets and property of the bankrupt corporation herein, namely: good-will, customers' lists, laundry routes, machinery, equipment, trucks, furniture, fixtures and all other personal property now situated at 2621-31 West Chicago Avenue, Chicago, Illinois, and that in the meantime said respondents be restrained and enjoined, by order of this Court, from using the customers' lists or routes of the bankrupt corporation or in anywise contacting or communicating with any of the customers of the bankrupt corporation; and that this Court grant such other and further relief as shall seem meet.

16. *Answering Paragraph 16*, these respondents deny each and every allegation thereof, and further answering, restate as though fully set forth herein, the averments of Paragraph 14 above.

Wherefore, these respondents having fully answered, pray that an order may be entered dismissing the Peti-

tion for Turn-Over Order and for such other orders as to the Court may seem meet."

Nowhere in this Answer, we submit, is there the slightest suggestion that Appellants contest, or intend to contest, the power of the Court to proceed. It is the same type of Answer Appellants would ordinarily file if a plenary suit had been instituted in the first instance. It denies many of the allegations, asks for strict proof of others, denies knowledge of others, and asserts ownership of the property involved. The concluding prayer, "Wherefore these Respondents, having fully answered, pray that an order may be entered dismissing the Petition for Turn-over Order, and for such other orders as to the Court may seem meet" does not manifest an intention to object to the jurisdiction of the Court. It is the usual prayer of any Respondent in any ordinary equity proceeding. It is evident that the Referee did not think the Answer raised the question of jurisdiction because he said to the attorney for Appellants (Tr. 239): "Did you attack the jurisdiction? You have answered this Petition, have you not?" And when counsel for Appellants said: "With the knowledge we had at that time" it is obvious that Appellants, too, recognized that by their Answer they did not attack the Court's jurisdiction.

#### IV.

**The opinion fails to point out when Appellants first raised their objection to summary procedure.**

Was the question of jurisdiction first raised by the Appellants' Answer, filed January 2, 1942? Was it first raised by their oral motion on April 9, 1942? Was it first raised by their oral motion on April 30, 1942 (after



the evidence was all in)? Was it first raised on May 19, 1942 (when a new firm of attorneys appeared for Appellees and filed their Special and Limited Appearance)?

The opinion holds that the objection was raised in "apt time." Does "apt time" mean any time up to the entry of a final order? Is an answer denying the petitioner's right to the property sufficient to raise the question of the Court's jurisdiction to proceed? If this Court should hold that a respondent may raise a jurisdictional question at any time up to the entry of a final order a trustee is placed in a most disadvantageous position, and conversely, a respondent is given a tremendous advantage. A respondent might wait until all the evidence is introduced, and if he thinks the record is unfavorable to him, he might move to dismiss the petition for want of jurisdiction and then obtain a second trial in another Court. The trustee would never know until the Court actually entered a final order, whether or not the matter was being heard on the merits or whether the respondent would at the very end, come in and move for a dismissal. This is precisely the procedure employed by the Appellants in the instant case. If they believed they would win on the merits, we cannot conceive that they would have urged the dismissal on jurisdictional grounds. Feeling insecure, they raised the jurisdictional question at the last moment. The cases cited by us in our original brief support the proposition that objection to summary must be timely raised. We submit it is not timely raised, after all evidence has been introduced and all matters disposed of except the entry of the final order.

V.

**The case was fully tried on its merits.**

The opinion overlooks the fact that both sides tried, and intended to try, the case on its merits. Eight full

hearings were had before the Referee, sixteen witnesses testified, twenty-six exhibits were introduced, and there were 435 pages of typewritten testimony. All of the evidence related to transactions, documents and conversations concerning the merits of the case—the rights, ownership and possession of certain definite property and real estate. How can it be said the Referee was merely conducting a preliminary hearing to determine his jurisdiction to proceed?

### CONCLUSION.

If ever a case was tried on its merits, this is it. No one can read the record without feeling that the Appellants have had a full day in court. This Court should not give them another. After eight full hearings, at which sixteen witnesses testified, twenty-six exhibits were taken. Appellants, for the first time, raised objection to the Court's summary power to proceed. They must have felt the record exposed them to liability on the merits. If the record was favorable to them, we cannot conceive that they would urge an objection to jurisdiction. They evidently foresaw better prospects at another trial in another court.

If the Court's decision stands, the floor is wide open for respondents in this Circuit to wait until the end of a case and then decide whether it is advisable to object to the Court's jurisdiction. As we view it, this is the logical result of the Court's decision. We are confident the Court does not intend to countenance such practice.

We respectfully request the Court to re-examine *Louisville Trust Co. v. Comingor*, as well as other cases and

authorities cited in our original Brief, in the light of the comments herein made. We also respectfully request a rehearing and oral argument in connection with the matters contained in this petition, which we believe have been overlooked or misapprehended by this Court.

Respectfully submitted,

HARRY W. CLINE, *Trustee in Bankruptcy*  
*of Gold Medal Laundries, Inc.,*

*Appellee.*

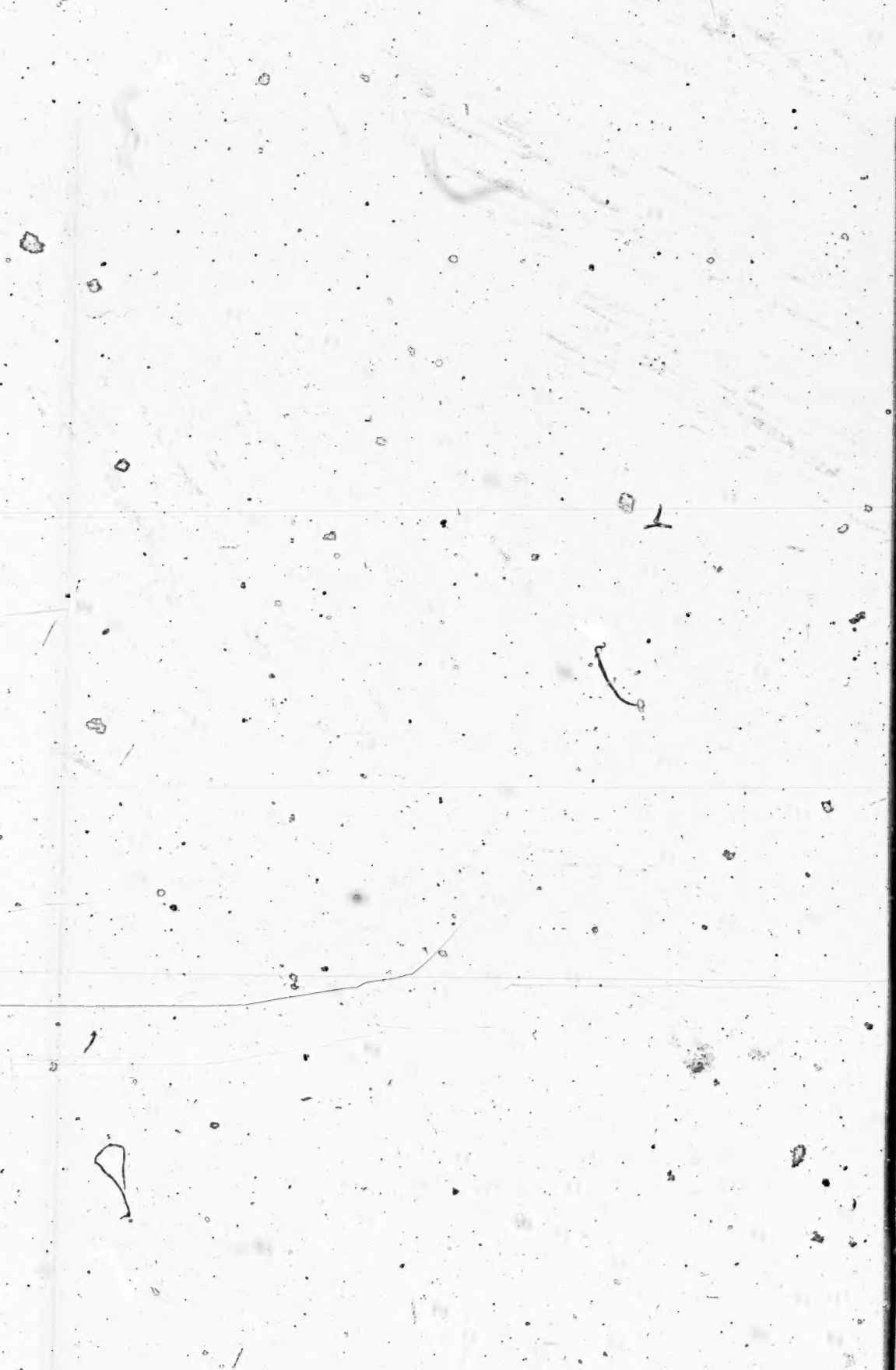
RUSSELL J. TOPPER,

SIMON H. ALSTER,

100 W. Monroe Street,

Chicago 3, Illinois,

*Counsel for Appellee.*



*Order Denying Rehearing.*

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Endorsed: Filed April 25, 1944. Kenneth J. Carriek,  
Clerk.

And afterwards, to-wit: On the sixth day of June, 1944,  
the following further proceedings were had and entered  
of record, to-wit:

Tuesday, June 6, 1944.

Court met pursuant to adjournment.

Before:

Hon. Evan A. Evans, Circuit Judge.

Hon. William M. Sparks, Circuit Judge.

Hon. J. Earl Major, Circuit Judge.

In the Matter of

Gold Medal Laundries, Inc.,

Bankrupt.

Arthur S. Kaplan, Harry Koplin,  
and Budget Launderers, Inc.,  
formerly known as Chicago  
Laundry Building Company, a  
Corporation, and Unique Launderers, Inc.,

*Appellants,*

8447

Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.,

*Appellee.*

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

It is ordered by the Court that the petition for a rehearing of this cause be, and it is hereby denied.

And afterwards, to-wit: On the thirteenth day of June, 1944, the Mandate of this Court issued to the District Court of the United States for the Northern District of Illinois, Eastern Division.





UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

I, Kenneth J. Carrick, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages contain a true copy of the proceedings had and papers filed, excepting briefs of counsel, motions and orders extending time for filing briefs and motion and order directing that certain original records be sent to this Court, in:

Cause No. 8447.

In the Matter of

Gold Medal Laundries, Inc.,

Bankrupt.

Arthur S. Kaplan, Harry Koplin, and Budget Launderers, Inc., formerly known as Chicago Laundry Building Company, a Corporation and Unique Launderers, Inc.,

Appellants,

vs.

Harry W. Cline, Trustee in Bankruptcy of Gold Medal Laundries, Inc.,

Appellee.

as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 27th day of June, A. D. 1944.

(Seal)

(signed) Kenneth J. Carrick,  
Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.



IN THE  
**SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1944

**No.** 307

HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF  
GOLD MEDAL LAUNDRIES, INC.,  
*Petitioner,*

*vs.*

ARTHUR S. KAPLAN, HARRY KOPLIN, AND  
BUDGET LAUNDERERS, INC.,  
*Respondents.*

**PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT, AND BRIEF IN  
SUPPORT THEREOF.**

EDWARD RETHBART,  
c/o S. H. Alster,  
100 West Monroe Street,  
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*Counsel for Petitioner.*

SIMON H. ALSTER,  
*Of Counsel.*





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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. \_\_\_\_\_

HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF  
GOLD MEDAL LAUNDRIES, INC.,

*Petitioner,*

vs.

ARTHUR S. KAPLAN, HARRY KOPLIN, and  
BUDGET LAUNDERERS, INC.,

*Respondents.*

**PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT.**

*To the Honorable, the Chief Justice and Associate Justices  
of the Supreme Court of the United States:*

Your petitioner, Harry W. Cline, trustee in bankruptcy of Gold Medal Laundries, Inc., respectfully prays that a writ of certiorari issue to the Circuit Court of Appeals for the Seventh Circuit to review an order of that court entered April 12, 1944 (petition for rehearing denied June 6, 1944) reversing an order of the United States District Court for the Northern District of Illinois, Eastern Division. A certified transcript of the record in the case,



including the proceedings in the Circuit Court of Appeals, is furnished herewith in accordance with the rules of this Honorable Court.

### Statement of the Matter Involved.

This case raises the question as to when a respondent may object to the summary jurisdiction of a bankruptcy court to hear a petition filed by the trustee under Section 60(b) of the Bankruptcy Act to recover assets for the estate. Applied to the facts the problem is: May respondents, having appeared generally, having pleaded fully to the merits of the trustee's petition for a turn-over order (without raising any objection to the summary proceeding), and having participated in and introduced evidence at the several hearings on the merits, nevertheless, at the conclusion of all evidence, but before the court has entered its order, object to summary jurisdiction? The Circuit Court of Appeals for the Seventh Circuit held that objection may be raised at any time before the final order of the court, relying on *Louisville Trust Co. v. Cominger*, 184 U. S. 18. A decision on this question is of prime importance in the administration of the Bankruptcy Act.

The Trustee in bankruptcy, the petitioner here, filed a petition with the referee for an order on the respondents to turn over to the trustee certain real and personal property. The petition recites in detail the various transactions between the bankrupt and the respondents and the basis on which the trustee asserts his right to the disputed property (R. 6-10). The answer of respondents denies some of the allegations of the petition, denies knowledge and demands strict proof of others, challenges the legal sufficiency of other parts of the petition and makes additional averments of fact as to the ownership of the property in question. It does not raise any jurisdictional question. In the petition for re-hearing filed with the court

below we set forth verbatim in numerical order every allegation of the petition and after each allegation the answer of the respondents to such allegation. (See R. 415-24).

Eight hearings were held before the referee on the petition and answer, extending over a period of three and one-half months. At these hearings 16 witnesses testified for both sides, 26 exhibits were introduced and 435 typewritten pages of testimony were taken. All of the evidence related to transactions, conversations and documents concerning the merits of the case, viz., the rights of ownership and possession of the contested property.

After all proofs were closed, but before a decision was rendered by the referee, new attorneys entered their special and limited appearance as co-counsel for respondents and moved for the entry of an order determining that respondents were adverse claimants and the court had no jurisdiction to adjudicate their rights in the property involved (R. 19). The referee entered an order dismissing the petition for want of summary jurisdiction. The District Court, on a petition to review, reversed the referee and concluded that the respondents had consented to jurisdiction. In a memorandum of opinion the District Court said (R. 343):

"Here, the jurisdiction of the Referee to hear the controversy in a summary proceeding was not challenged until after there had been an answer on the merits, an extensive hearing on the merits, the proofs closed, and the case ready for decision by the Referee. The court is of the opinion that the respondents have waived their privilege of demanding that the matter be heard in a plenary proceeding and that they have consented to the summary jurisdiction."

The District Court re-referred the matter to the referee with directions to decide the issues on the merits. The referee then filed a memorandum of opinion and order dis-

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missing the trustee's petition for a turn-over order on the merits (R. 348-58). On trustee's second petition for review the District Court again reversed the referee's order on the merits and directed the respondents to turn over to the trustee the disputed property (R. 374-9). Respondents then prosecuted an appeal to the Circuit Court of Appeals for the Seventh Circuit charging that the District Court committed error in ruling that respondents had consented to the summary jurisdiction of the court and in ordering them to turn over to the trustee the property involved. The Circuit Court of Appeals reversed the order of the District Court, holding that as objection to summary jurisdiction was made before the referee prior to the entry of the final order on the issues, the court was without jurisdiction to decide the case, basing its decision on *Louisville Trust Co. v. Cominger*, 184 U. S. 18. The gist of the opinion of the Court of Appeals is as follows (R. 403-5):

"The case most nearly in point, according to our view, is *Louisville Trust Co. v. Cominger*, 184 U. S. 18. There, the adverse party answered the petition for turn-over and some five months later for the first time raised the jurisdictional question before the referee. The referee's holding that the question was not raised in apt time was sustained by the District Court. The action of the District Court was predicated upon an implied consent on the part of *Cominger*. As pointed out by the Circuit Court of Appeals (107 Fed. 898, 904): 'But the district judge puts his conclusion upon the ground that the petitioner has acquiesced in the course pursued, by making response to the orders, asking to be relieved in the premises, and going into proof before the referee, and making stipulations concerning the proof on the reference.' The Circuit Court reversed the District Court and held that the attack upon summary jurisdiction was sufficient. The Supreme Court affirmed, and in holding that the juris-

ditional attack was timely pointed out that 'he made his formal protest to the exercise of jurisdiction before the final order was entered.' " (Italics ours)

The Court of Appeals misapprehended a significant fact in the *Comingor* case. The court said: "There, the adverse party answered the petition for turn-over . . . ." This is not the fact. There was no petition filed in the *Comingor* case. As this court said in the *Comingor* case, 184 U. S. 18, at page 25:

"Nor in this matter was any Petition by the Trustee, or by any other person, filed against *Comingor* to recover these sums, and the Orders were entered by the Referee on the record as it stood, so that there was no pretense whatever of a plenary suit in that Court, in form or in substance."

As we shall demonstrate in our brief in support of this petition, the *Comingor* case does not support the proposition that an adverse claimant may, at any time prior to the entry of the final order, withdraw his general appearance, disregard his pleadings on the merits, ignore all evidence taken at the hearings, and move for the first time to dismiss the proceeding for lack of summary jurisdiction.

It will serve no useful purpose to narrate or summarize the voluminous amount of evidence presented in support of the merits of the trustee's petition and the answer of respondents. To do so would extend this petition considerably without aiding the court in passing on the question involved. It required 8 full hearings and 16 witnesses to tell the story for both sides. The record includes 26 exhibits and 435 pages of typewritten testimony. All of the conversations, transactions and documents related to the right of ownership and possession of the property and whether or not seizure of that property by respondents

was lawful. The plenary suit referred to by the Court of Appeals as pending in another court involves other issues.

It is significant, however, to point out that at one of the late hearings before the referee the trustee's attorney made a motion to strike certain testimony of one of respondents' witnesses, at which time counsel for respondents raised a verbal objection to jurisdiction. The following colloquy occurred (R. 238):

"The Court (addressing counsel for respondents): Did you attack the jurisdiction? You have answered this petition, have you not?"

"Counsel for Respondents: I would like to file a written motion and present arguments on it."

"The Court: I will give you leave to do that."

At the next hearing the following colloquy occurred with reference to respondents' motion to strike the trustee's petition for want of jurisdiction:

"Counsel for respondents: I am withdrawing that motion that was pending here (meaning the motion contesting the summary jurisdiction of the court)."

"The Court: All right. The record may show the motion is withdrawn. Leave to withdraw the motion to strike the petition for want of jurisdiction." (R. 242)

It is apparent that attorneys for respondents specifically asked leave to file a written motion and argument attacking the jurisdiction of the court and this after the referee had informed them that respondents had answered the petition and also after most of the proof was in. Subsequently counsel for respondents expressly withdrew their motion. This voluntary and express withdrawal by respondents of their motion to dismiss the petition for want of jurisdiction constituted, we submit, a consent to permit



the court to continue to hear the case on the merits. Notwithstanding this record, the Court of Appeals holds that no matter what has transpired in the course of the proceeding, a respondent may nevertheless at any time prior to the entry of a final order, protest the jurisdiction of the court.

### Conflict of Circuits.

The opinion of the Court of Appeals admits that there is a conflict among the circuits on the question involved. The court said (R. 403):

"In the *West* case (meaning *In Re West Produce Corp.*, 118 Fed. (2d) 274) (CCA 2nd) (1941) the court said: 'An objection to a summary jurisdiction must be timely. It comes too late if first made after the Referee has issued his turn-over order. \* \* \*. We think it is also too late if first-made at the time of submission for decision, after answer and a hearing on the merits.' *While the last sentence of this quotation furnishes support for the trustee's position, we think it is contrary to the weight of authority.*" (Italics ours)

The Second Circuit also held in the *Matter of Realty Associates Securities Corp.*, 98 F. (2d) 722 (1938), pages 724-25:

"If there ever was any right to attack the jurisdiction of the court to entertain a summary proceeding because of the nature of the issues involved, it was waived by failure to object on that ground and by proceeding to a trial on the merits."

The Eighth Circuit held in *First State Bank v. Fox*, 10 Fed. (2d), C.C.A. (8th), 116 (1925), at page 118:

"As to contention that possession of the property not being in the Trustee, but in appellant bank, as an

adverse claimant, it was entitled to have its rights relative thereto adjudicated in a plenary action, rather than in a summary proceeding, such privilege is waived by not timely raising the question, but joining issue before referee and participating in such hearing."

It is evident that the Circuit Court of Appeals for the Seventh Circuit has rendered a decision in conflict with the decisions of other circuits on a matter of fundamental importance in bankruptcy practice. This court has held that objection to summary procedure may be waived by express consent. *MacDonald v. Plymouth County Trust Co.*, 286 U. S. 263. It has not held there may be an implied consent. Confusion exists and a decision clarifying the subject is needed.

### **Jurisdiction to Review.**

The jurisdiction of this court is invoked under Sec. 240(a) of the Judicial Code as amended by Act of February 13, 1925 (28 U.S.C.A. Sec. 347A). The date of the opinion of the Circuit Court of Appeals for the Seventh Circuit sought to be reviewed was April 12, 1944. Petition for re-hearing was denied June 6, 1944.

### **Questions Presented.**

1. May respondents to a trustee's petition for a turnover order filed under Sec. 60(b) of the Bankruptcy Act, having appeared generally, having pleaded fully to the merits of the petition, without contesting the court's jurisdiction, having participated in the several hearings on the issues, and having presented evidence in support of their answer, nevertheless, at the conclusion of all proof, but before the entry of a final order, object to the court's summary jurisdiction?

To state the proposition otherwise: Where a trustee in bankruptcy files a petition for a turn-over order under Sec. 60(b) of the Bankruptcy Act, does the conduct of respondents in appearing generally, answering the petition on the merits (without raising any objection to the court's jurisdiction), participating in various hearings on the merits, and introducing evidence in support of the answer, constitute a consent to the court's jurisdiction to hear the issues summarily?

### Reasons Relied On for Allowance of the Writ.

1. The question involved in this appeal is vital in the administration of the Bankruptcy Act. Literally hundreds of petitions are filed annually by trustees in bankruptcy for the recovery of assets. May a respondent wait until all proof is in and then for the first time object to the court's summary jurisdiction? The Court of Appeals answered the question in the affirmative. This court has never ruled on this proposition and it is submitted that a decision on the problem is of prime importance in bankruptcy administration.

2. The decision of the Circuit Court of Appeals for the Seventh Circuit resulted from a misapprehension of the facts in *Louisville Trust Co. v. Cominger*, 184 U. S. 18 and because of such misapprehension the court misconstrued and misapplied that decision to the instant case.

3. The decision of the Circuit Court of Appeals for the Seventh Circuit in the instant case is such a radical departure from the customary course of procedure in proceedings under the Bankruptcy Statute as to call for the exercise by this court of its power of supervision.

4. The decision of the Circuit Court of Appeals for the Seventh Circuit is in conflict with the decisions of the Circuit Court of Appeals for the Second Circuit and for the Eighth Circuit.

**PRAYER.**

WHEREFORE, your petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Court, directed to the United States Circuit Court of Appeals for the Seventh Judicial Circuit, commanding said court to certify and send to this Court on a day to be designated, a full and complete transcript of the record and of all proceedings of the Circuit Court of Appeals had in this cause, to the end that this cause may be reviewed and determined by this Court; that the order of the Circuit Court of Appeals for the Seventh Judicial Circuit reversing the decree of the District Court be reversed and remanded and that petitioner be granted such other and further relief as may seem proper.

EDWARD ROTHBART,

*Counsel for Petitioner.*

SIMON H. ALSTER,

*Of Counsel.*

IN THE

## SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. \_\_\_\_\_

HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF  
GOLD MEDAL LAUNDRIES, INC.,*Petitioner,**vs.*ARTHUR S. KAPLAN, HARRY KOPLIN, and  
BUDGET LAUNDERERS, INC.,*Respondents.***BRIEF IN SUPPORT OF PETITION.****Opinions Below.**

The District Court filed a memorandum of opinion on the question involved and the same is printed in full in the record. (R. 340-2).

The opinion of the Circuit Court of Appeals (R. 401-5) has been officially reported at 142 Fed. (2) 301.

**Statement of the Case.**

A statement of the matter involved has been fully presented in our petition and the Court is respectfully referred to pages 2 to 7 herein. In the interest of brevity, the statement is not repeated here.



### Specification of Errors.

The Circuit Court of Appeals erred:

1. In reversing the order of the District Court.
2. In holding that objection to the summary jurisdiction of a bankruptcy court may be raised by a respondent to a trustee's petition for a turn-over order at any time before the final order of the court.
3. In holding that *Louisville Trust Co. v. Comingor*, 184 U. S. 18, stands for the proposition that protest to summary jurisdiction of a bankruptcy court may be interposed at any time prior to the final order of the court.

### Summary of Argument.

I. The decision of the court below that objection to summary jurisdiction may be made at any time before the final order of the court on the issues, is not supported by *Louisville Trust Co. v. Comingor*, 184 U. S. 18. This court said in that case "there was no pretense whatever of a plenary suit in form or in substance," and the respondent "pleaded his claims in the outset."

II. Where respondents to a trustee's petition for a turn-over order appear generally, plead to the merits, introduce evidence and otherwise participate in hearings on the merits, they waive their privilege of demanding that the issues be heard in a plenary proceeding and consent to the summary jurisdiction of the court.

III. In *MacDonald v. Plymouth County Trust Co.*, 286 U. S. 263, this court affirmed the First Circuit in its holding 53 Fed. (2nd) 827, that a colloquy between counsel was sufficient to manifest consent to jurisdiction. The court below failed to follow this holding and held that, notwithstanding the pleading and all that had transpired at the

hearings, objection to summary jurisdiction may be made at any time before the entry of the court's final order.

IV. The opinion of the court below leads to results grossly inequitable to a trustee in bankruptcy.

## ARGUMENT.

### I.

The decision of the court below that objection to summary jurisdiction may be made at any time before the final order of the court on the issues is not supported by *Louisville Trust Co. v. Cominger*, 184 U. S. 18.

It is the contention of petitioner that *Louisville Trust Co. v. Cominger*, 184 U. S. 18 does not support the holding of the Circuit Court of Appeals for the Seventh Circuit that no matter what has transpired in the course of a summary proceeding, a respondent may at any time prior to the entry of a final order on the issues, object to the summary jurisdiction of the court. In view of the holding of the Court of Appeals that the *Cominger* case is virtually decisive of this controversy, we believe that a brief resumé of the facts and issues of that case are pertinent.

In the *Cominger* case an assignment for the benefit of creditors was made to Cominger as assignee pursuant to a Kentucky statute. In accordance with the Kentucky statute, the assignment was administered in a Kentucky court and the assignee was at all times subject to the court's jurisdiction. An involuntary petition in bankruptcy was subsequently filed against the assignor and adjudication

followed. The matter was then referred to the referee for administration. In the course of administration it came to the attention of the referee that the assignee had, prior to the bankruptcy; but during administration under the assignment, paid some fees to himself and to his attorney. The referee promptly, without notice or petition or application by an interested party, entered an *ex parte* rule against Comingor as assignee, and his counsel, to appear three days thereafter and show cause why he should not turn over to the bankruptcy receiver the amount of fees paid to himself and to his attorney. Comingor responded that he had retained the money on account of commissions as assignee; that he relied on the fact that he would be entitled to more than that sum on final settlement; that he believed the court would allow at least the sum retained; that he was a person of no means and that he had used said money from time to time relying on the fact that it belonged to him and he had none of it left, and he was unable to pay said money into court as he had no money or property of any kind. About five months later Comingor for the first time, raised the jurisdictional question before the referee. The referee ruled that the question was not raised in apt time and he was sustained by the District Court. The Court of Appeals reversed the District Court and this court affirmed the Circuit Court. This court said of Comingor, at page 26:

"He did not come in voluntarily, but in obedience to peremptory orders and that although he participated in the proceedings before the referee he had pleaded his claims *in the outset*." (Italics ours)

And this court further observed at p. 25:

"Nor in this matter was any Petition by the Trustee, or by any other person, filed against Comingor to recover these sums, and the Orders were entered by the Referee on the record as it stood, so that there

was no pretense whatever of a plenary suit in that Court, in form or in substance."

Two facts differentiate the *Comingor* case from the instant case. In our case the trustee asked leave of court to file his petition and the respondent asked leave of court to answer. There was no element of coercion on respondents. There was a plenary suit in form and in substance. Clear issues were created by the petition and the answer. In the *Comingor* case the referee, in an *ex parte* hearing, entered a peremptory order on respondent to restore funds to the estate. As this court said: "There was not pretense whatever of a plenary suit in form or in substance." In the *Comingor* case respondent pleaded his claims "at the outset," and in the instant case respondents did not assert any jurisdictional objections until all proof was in and the issues were ready for the court's decision.

It is true that this court did say in the *Comingor* case that "he (Comingor) made his formal protest to the exercise of jurisdiction before the final order was entered." The court found, however, that he had pleaded his claims at the outset. It is well settled that a decree is to be construed with reference to the issues it was intended to decide, and if its language is broader than is required it will be limited by construction so that its effect shall be such only as is needed for the purposes of the case. *City of Vicksburg v. Henson*, 231 U. S. 259, 269.

It is respectfully submitted that the *Comingor* case, 184 U. S. 18, does not hold that a respondent, notwithstanding his appearance generally, his answer to the merits, his participation in the trial of the issues, may, at any time, before the final order of the court, reject all that has transpired and protest for the first time the court's summary jurisdiction.

## II.

Where respondents to a trustee's petition for turn-over order appear generally, plead to the merits, introduce evidence and otherwise participate in hearings on the merits, they waive their privilege of demanding that the issues be heard in a plenary proceeding and consent to the summary jurisdiction of the court.

It is the contention of the trustee in bankruptcy, the petitioner here, that respondents, having appeared generally, having pleaded to the merits of the petition, and having proceeded to and participated in the several hearings on the merits, have waived their privilege of demanding that the issues be heard in a plenary proceeding, and have by their conduct impliedly consented to the jurisdiction of the court.

That objection to summary procedure may be waived by consent was held by this court in *MacDonald v. Plymouth County Trust Company*, 286 U. S. 263, where Mr. Justice Stone said, at page 267:

"And we can perceive no reason why the privilege of claiming the benefits of the procedure in a plenary suit, secured to suitors under section 60(b) and section 23(b), may not be waived by consent, as any other procedural privilege of the suitor may be waived, and a more summary procedure substituted."

This court further said, in *Harris v. Avery Brundage Co.*, 305 U. S. 160, at page 164:

"Since the parties had only a procedural right to have these issues tried in a plenary suit, they were at liberty to waive this right."

In the case of *Fairbanks Co. v. Wills*, 240 U. S. 642, a question arose concerning the jurisdiction of a district



court to entertain a proceeding under Sec. 2 of the then Bankruptcy Act. This court said, at page 649:

"As to this, the Circuit Court of Appeals correctly held that appellant, by answering and making defense upon the merits, consented to the jurisdiction, so that whether, under Section 23a and 23b, construed together with Section 70e, as amended, consent to the jurisdiction of the District Court was required, need not be considered."

In the recent case of *In Re West Produce Corp.*, 118 Fed. (2d) 274 (1941), the court said at page 277:

"An objection to a summary jurisdiction must be timely. It comes too late if first made after the Referee has issued his turn-over order. \* \* \* *We think it is also too late if first made at the time of submission for decision, after answer and a hearing on the merits.*" (Italics ours)

In the case of *First State Bank v. Fox*, 10 Fed. (2d), C.C.A. (8th) 116 (1925), the court said at page 118:

"As to contention that possession of the property not being in the Trustee, but in appellant bank, as an adverse claimant, it was entitled to have its rights relative thereto adjudicated in a plenary action, rather than in a summary proceeding, such privilege is waived by not timely raising the question, but joining issue before referee and participating in such hearing."

*In the Matter of Prebronx Realty Corporation*, 17 A.B.R., (N.S.) 346, a referee in bankruptcy said at page 346:

"For the first time the attorney for the respondents raised the question of the referee's jurisdiction by his motion to dismiss *after the testimony was all in*. He did not raise it by answer nor on the threshold of the

hearings. These motions and the question sought to be raised came too late." (Italics ours)

To the effect that filing a general appearance constitutes a waiver of objection to summary procedure, see *Bachman v. McCluer*, 63 F. (2d) 580 (C.C.A.Me.); *In Re Falk*, 30 F. (2d) 607. It has also been held that answering to the merits waives objection to a summary proceeding. *In re Lipton* (D.C. N.Y.) 4 F. Supp. 799; *In re, Franklin Brewing* (D.C. N.Y.) 257 F. 135.

*In the Matter of Ackerman*, 82 F. (2d) 971 (1936) (C.C.A.6), the court said at page 972:

"No question arises as to the jurisdiction of a bankruptcy court to proceed summarily. Objection was not made by the respondent to the power of the court to entertain the petition for turn-over order on the ground that he was an adverse claimant, and consent to adjudication thereon is plainly inferable."

*In the Matter of Realty Associates Securities Corp.*, 98 F. (2d) 722 (1938) (C.C.A.2d), the court said at pages 724-5:

"If there ever was any right to attack the jurisdiction of the court to entertain a summary proceeding because of the nature of the issues involved, it was waived by failure to object on that ground and by proceeding to a trial on the merits."

It was held in *Latex Drilling Co.*, 11 F. (2d) 373 (D.C. W.D.La.) that where all parties appear in the proceeding and no objection to summary procedure is raised, the right to a plenary suit is waived.

Textbook writers have uniformly declared that proceeding to a hearing on the merits constitutes a waiver of objection to jurisdiction and amounts to consent to the court's

summary procedure. Collier on Bankruptcy, under the heading "Summary Jurisdiction By Consent" 14th Ed., Vol. 2, says at page 509:

"Clearly, however, the rule still prevails that where the claimant proceeds to a hearing upon the merits, without objection to the jurisdiction, he will be deemed to have consented."

Remington on Bankruptcy, under the heading of "Jurisdiction Over Adverse Claimants," Vol. 5, says at pages 338-9:

"On the other hand, answering to the merits without objection is consent, and it has been held that by appearing generally and demurring on the grounds going to the merits as well as to the jurisdiction of the court, a defendant waives the objection that the court is without jurisdiction. The appearance in the bankruptcy proceedings and, without objection to the jurisdiction, the submission of the questions of ownership or of priority to the referee for adjudication, amount to consent."

In Corpus Juris Secundum, Vol. 8 (Bankruptcy) it is said (pages 1123-25):

"Thus, when an adverse claimant puts in a general appearance and submits his claim in a summary proceeding, he consents to that form of procedure, at least where he fails to object; by answering on the merits he waives objection to summary jurisdiction."

With the greatest respect to the Circuit Court of Appeals for the Seventh Circuit, we submit that the overwhelming weight of authority supports the proposition that objection to summary jurisdiction must be timely made and that it comes too late after pleading on the merits, hearing on the

issues and the cause is ready for submission to the court for decision.

If, as the Court of Appeals holds, a respondent may raise a jurisdictional objection at any time prior to the entry of a final order, a trustee in bankruptcy is placed in a most disadvantageous position, and conversely, a respondent is given a tremendous advantage. A respondent might wait until all the evidence is introduced, and if he thinks the record is unfavorable to him, he will naturally move to dismiss the petition for want of jurisdiction and hope for a better record in another court. The trustee could never know until the court actually entered a final order whether or not the matter was being heard on the merits or whether the respondent would at the very end interpose an objection to jurisdiction and move for dismissal of the trustee's petition. If the decision of the Court of Appeals stands, the door is wide open for respondents in the Seventh Circuit to wait until all proof is in and then decide whether it is advisable to object to the court's jurisdiction or permit a decision on the merits. This is the logical result of the rule as announced by the Court of Appeals. We cannot conceive that this court will countenance such practice.

This court has never squarely decided this proposition and in view of its importance in bankruptcy practice it is submitted that a ruling by this court is essential.

### III.

In *MacDonald v. Plymouth County Trust Co.*, 286 U. S. 263, this court affirmed the First Circuit in holding, 53 F. (2d) 827, that a colloquy between counsel was sufficient to manifest consent to jurisdiction. The court below failed to follow this holding.

As we stated in our petition, at one of the late hearings before the Referee the trustee's attorney moved to strike

certain testimony of a witness for respondents. Counsel for respondents then verbally moved to dismiss the petition for want of jurisdiction. The following colloquy occurred:

"The Court (addressing counsel for respondents): Did you attack the jurisdiction? You have answered this petition, have you not?"

"Counsel for respondents: I would like to file a written motion and present arguments on it.

"The Court: I will give you leave to do that." (R. 238)

At the next hearing a further colloquy occurred with reference to respondents' motion to strike the trustee's petition for want of jurisdiction, as follows:

"Counsel for respondents: I am withdrawing that motion that was pending here (meaning the motion to contest the court's jurisdiction)."

"The Court: All right. The record may show the motion is withdrawn. Leave to withdraw the motion to strike the petition for want of jurisdiction." (R. 242)

In *MacDonald v. Plymouth County Trust Company*, 53 F. (2d) 827, the Circuit Court of Appeals for the First Circuit held that a colloquy between counsel for trustee and the claimant had the effect of a consent by adverse claimants to submit the issues to the referee in bankruptcy. The second circuit said, at page 829:

"While appellant apparently refused to submit to summary jurisdiction with the referee, the effect of this colloquy, we think, was a consent by appellant to hear the matter before the referee."

This court affirmed the case in 236 U. S. 263.

We submit that the colloquy in this case between counsel for respondents and the referee manifested a consent by



respondents to the hearing of the issues by the court in a summary manner. Counsel for respondents specifically asked leave to file a written motion and argument attacking the summary jurisdiction of the court and this after the court had informed him that respondents had answered the petition. Subsequently counsel for respondents expressly withdrew their motion. It is submitted that this voluntary and express withdrawal by respondents of their motion to dismiss the petition for want of jurisdiction constituted a consent to permit the court to continue to hear the case on the merits. In spite of this record, the court below holds in effect that no matter what has transpired in the course of the proceeding, a respondent may nevertheless at any time prior to the final order of the court object to summary jurisdiction.

#### IV.

**The opinion of the court below leads to results grossly inequitable to a trustee in bankruptcy.**

We find it difficult to reconcile the opinion of the court below with simple justice. Since the opinion holds that a respondent may object to summary jurisdiction at any time before the court's final order, its effect is to afford a respondent a right to two trials. If after all the evidence is introduced respondent deems the record unfavorable to him, he will naturally invoke his right to object to jurisdiction. The trustee will then be required to institute another suit in another court. The usual law's delays will follow to the advantage of respondent and to the detriment of the trustee. Since the trustee must prove his case, it will greatly benefit a respondent if witnesses disappear and recollections become hazy. A respondent will have the benefit of a full knowledge of the trustee's case and will govern himself accordingly at the second trial, if, indeed,

there is a second trial. A trustee may or may not be armed with similar information depending on whether or not a respondent elects to put in his case. A trustee will never know until an order is signed by the court whether his case is being heard on the merits or whether a respondent will at the end invoke a jurisdictional objection. The decision of the Court of Appeals leads to results so inequitable to a trustee in bankruptcy that we cannot believe it will receive the sanction of this court.

### CONCLUSION.

We submit that the factors which warrant relief in this case are:

- (1) The opinion of the Circuit Court of Appeals for the Seventh Circuit misapprehends, misconstrues and misapplies the holding of this court in *Louisville Trust Co. v. Comingor*, 184 U. S. 18.
- (2) The opinion of the Circuit Court of Appeals for the Seventh Circuit is so far a departure from the accepted and usual course of proceedings in administration of the Bankruptcy Act as to call for the exercise by this court of its power of supervision.
- (3) The opinion of the Circuit Court of Appeals for the Seventh Circuit is in conflict with the decisions of the Second Circuit Court of Appeals in *In Re West Produce Corp.*, 118 F. (2d) 274 and in conflict with the decision of the Eighth Circuit Court of Appeals in *First State Bank v. Fox*, 10 Fed. (2d), C.C.A. (8th), 116.
- (4) The question of law involved is in confusion and needs clarification and is of vital importance in the administration of the Bankruptcy Act.

Wherefore it is earnestly urged that certiorari be granted by this court, requiring the Circuit Court of Appeals for the Seventh Circuit to certify the record in this case to this court for review and determination.

Respectfully submitted;

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CLERK

IN THE  
**SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1944

**No. 307**

HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF  
GOLD MEDAL LAUNDRIES, INC.,

*Petitioner,*

ARTHUR S. KAPLAN, HARRY KOPLIN, AND  
BUDGET LAUNDERERS, INC.,

*Respondents.*

**BRIEF OF RESPONDENTS IN OPPOSITION TO  
PETITION FOR WRIT OF CERTIORARI.**

NORMAN H. NACHSIAN,  
Chicago, Illinois,

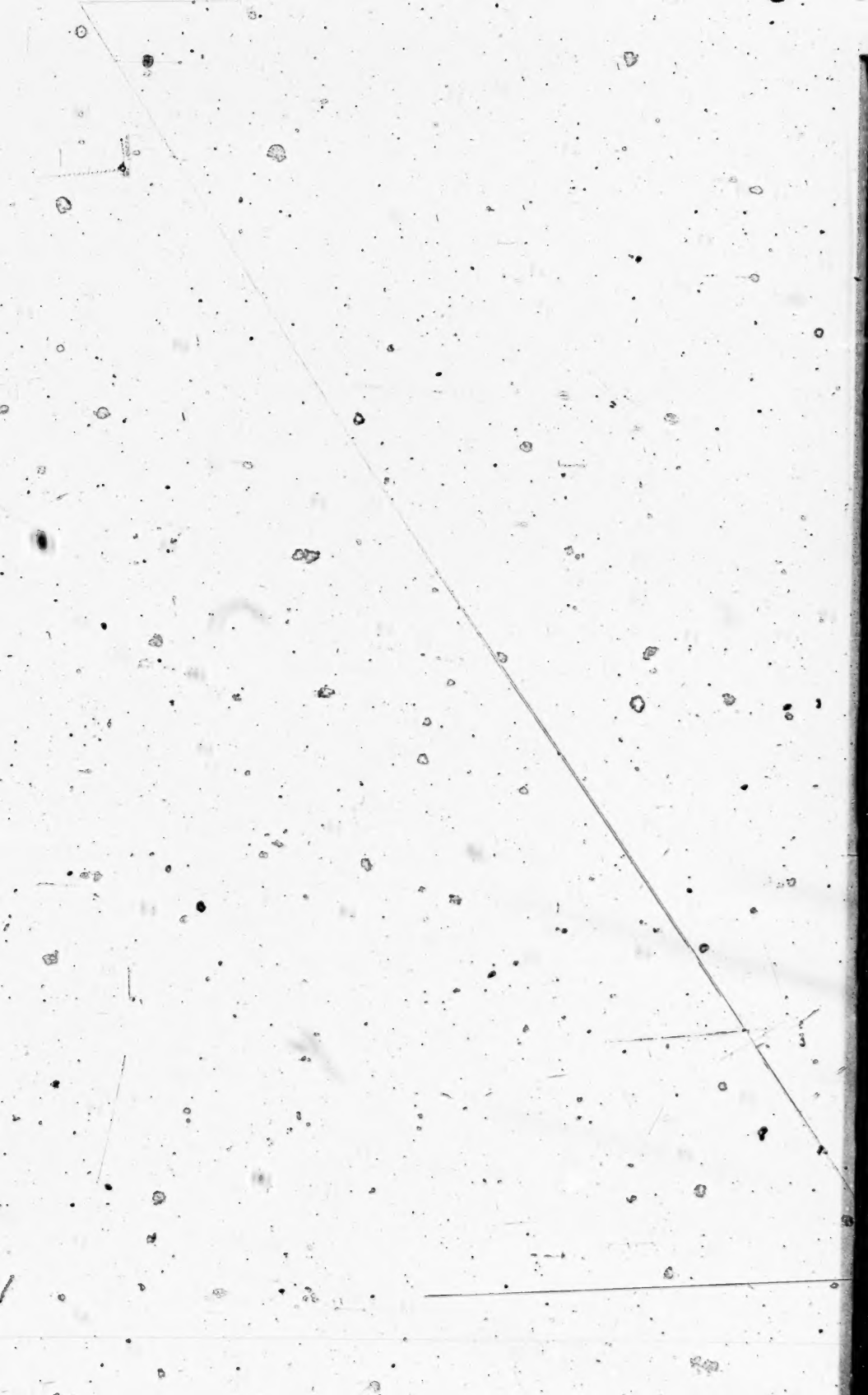
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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

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No. 307

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HARRY W. CLINE, TRUSTEE IN BANKRUPTCY OF  
GOLD MEDAL LAUNDRIES, INC.,  
*Petitioner,*  
vs.

ARTHUR S. KAPLAN, HARRY KOPLIN, and  
BUDGET LAUNDERERS, INC.,  
*Respondents.*

---

**BRIEF OF RESPONDENTS IN OPPOSITION TO  
PETITION FOR WRIT OF CERTIORARI.**

---

*To the Honorable, the Chief Justice and the  
Associate Justices of the Supreme Court  
of the United States:*

**Opinions Below.**

The District Court filed a Memorandum of Opinion which appears at pages 340-343 of the Record.

The opinion of the United States Circuit Court of Appeals, for the Seventh Circuit (R. 401-5) is reported at 142 Fed. (2) 301.

### **Jurisdiction.**

The decision of the Circuit Court of Appeals was entered April 12, 1944 (R. 401-5). Petition for rehearing was denied June 6, 1944 (R. 429). The Petition for a Writ of Certiorari was filed July 31, 1944. The jurisdiction of this Court is invoked under Section 240(a) of the Judicial Code, as amended.

### **Question Presented.**

Whether the respondents to a trustee's petition for a turn-over order who assert at the outset in their answer their claim of adversity, may, after the introduction of testimony before the Referee, but before proofs are closed and before any order has been entered by the Referee, challenge the summary jurisdiction of the Court.

### **Statement of the Case.**

The petitioner has not stated the case in either his Petition or Brief so as to fairly present the matter involved.

This is a bankruptcy case pending in the Northern District of Illinois, Eastern Division. The bankrupt corporation was organized on September 7, 1939 (R. 6), and engaged in the laundry business at 2621-31 W. Chicago Avenue, Chicago, Illinois, to June 12, 1940 (R. 6-9). The premises occupied by the bankrupt and the equipment used by it belonged to Maurice Ginsburg and Max Heiman (R. 7). It never belonged to the bankrupt (R. 356). On June 12, 1940, in consideration of the payment of Thirty-Nine Hundred Dollars (\$3900.00) by Harry Koplin, one of the respondents, Maurice Ginsburg sold all of his interest in the premises and equipment which was being occupied and used by the bankrupt corporation (Trustee's Ex. 14; R. 124, 291). It was by virtue of this transfer that respondents acquired the property claimed by the trustee.

The involuntary petition for adjudication in bankruptcy was filed on September 22, 1941 (R. 2), fifteen months after respondents had acquired said property. The original petition of the trustee for a turn-over order was filed with the Referee on December 22, 1941 (R. 6). It is admitted in paragraphs 8 and 12 of the trustee's petition (R. 8, 9), that respondents obtained possession of the property in question on June 12, 1940, fifteen months prior to the institution of the bankruptcy.

On January 2, 1942, respondents filed their answer (R. 11) to the trustee's petition for a turn-over order, and asserted their claim of adversity therein. Their answer also asserts that none of the property, real or personal, referred to in the trustee's petition, ever belonged to the bankrupt, and prays that the petition for a turn-over order be dismissed (R. 13). The trustee, in paragraphs 8, 12 and 15 of his petition (R. 8, 9, 10), admits that respondents had actual possession of the property for more than fifteen months prior to the bankruptcy, but asserts that said possession was unlawful. Testimony was introduced before the Referee, and on the 30th day of April, 1942, respondents made an oral motion to dismiss the petition for a turn-over order on the ground that they were adverse claimants, and that the Court did not have summary jurisdiction over them (R. 266). *This motion was made before the proofs were closed* (R. 267). On May 19, 1942, said oral motion to dismiss for lack of jurisdiction was reduced to writing and filed with the Referee (R. 18-20). The statement by petitioner at page 3 with reference to proofs being closed is misleading in that it fails to refer to the oral motion made on April 30, 1942, and refers only to the written motion filed on May 19, 1942. The quotation by petitioner at page 3 from the Memorandum of Opinion by the District Court (R. 343) discloses that the Court

erroneously concluded that the summary jurisdiction was not challenged until the proofs were closed. Briefs were submitted to the Referee on the jurisdictional question, and on June 24, 1942, the Referee entered a Memorandum of Opinion and Order sustaining the motion to dismiss the trustee's petition for lack of summary jurisdiction (R. 321-323) and stated therein that the hearings were held for the purpose of determining the jurisdictional question of possession of the *res* (R. 322). On July 15, 1942, the trustee filed his petition for review of the Referee's order (R. 325). On October 22, 1942, the District Court filed its Memorandum of Opinion (R. 340), reversing the Referee's order of June 24, 1942, and concluded that respondents had consented to jurisdiction. In said Memorandum of Opinion the District Court remanded the case to the Referee for a decision on the merits.

Thereafter on June 4, 1943 the Referee filed a Memorandum of Opinion and Order dismissing on the merits, the trustee's petition for a turn-over order (R. 348-58).

Upon the trustee's petition for review of the Referee's order of January 4, 1943 (R. 359), the District Court on September 1, 1943 filed its findings of fact and conclusions of law (R. 374) and on September 9, 1943 filed its order reversing the Referee's order on the merits (R. 378).

Two appeals were prosecuted by the respondents to the Circuit Court of Appeals for the Seventh Circuit. One pertained to the order of the District Court dated October 22, 1942, reversing the order entered on June 24, 1942, by the Referee, which dismissed the trustee's petition for a turn-over order because of lack of summary jurisdiction. The other appeal pertained to the order of the District Court dated September 9, 1943, reversing the order entered by the Referee on January 4, 1943, which dismissed



on the merits the trustee's petition for a turn-over order (R. 379-385). The Circuit Court of Appeals held that respondents' objection to the summary procedure was raised in apt time and that the District Court erroneously reversed the Referee in this respect. Inasmuch as the cause was reversed on that ground, the Circuit Court of Appeals stated there was no occasion to consider the other order appealed from, that is, the order on the merits of the case, and that it perhaps would be improper to do so, as such consideration might prove prejudicial to the rights of the parties in the plenary proceeding which, as shown by the Referee's report, is pending in another Court (R. 404-05).

Since the petitioner is in error as to the state of the record, it is necessary to specifically direct attention to the quotations from the record which are set forth by the petitioner at pages 6 and 21 of his Petition and Brief.

Petitioner sets forth the following colloquy which occurred at the hearing on April 9, 1942:

"The Court (addressing counsel for respondents): Did you attack the jurisdiction? You have answered this petition, have you not?"

"Counsel for respondents: I would like leave to file a written motion and present argument on it."

"The Court: I will give you leave to do that" (R. 239).

The petitioner also sets forth the following which occurred at the hearing on April 23, 1942:

"Counsel for respondents: I am withdrawing that motion that was pending here."

"The Court: All right. The record may show that the motion is withdrawn (R. 242). Leave to withdraw the motion to strike the petition for want of jurisdiction." (R. 243).

At page 6 of the Petition, it is stated parenthetically that respondents' counsel was referring to "the motion contesting the summary jurisdiction of the Court." However, at page 21 of his Brief, petitioner states in the same manner that respondents' counsel was referring to "the motion to contest the Court's jurisdiction."

*The motion referred to did not involve the question of summary jurisdiction. It related to a contest of the order of adjudication (R. 238, 242). Respondents on April 10, 1942, the day following the first hearing noted above, filed a motion to dismiss the trustee's petition on the ground that one of the petitioning creditors was disqualified and incompetent for the reasons in said motion set forth, and that the Court had no jurisdiction of the subject matter (R. 16, 17). It was this motion which was referred to and withdrawn on April 23, 1942 (R. 242, 243).*

### **Summary of Argument.**

I. This case is not one within the purview of Rule 38(5) of this Court. Opinions must be read in connection with the facts to determine whether there is a conflict. The cases cited by petitioner are distinguishable on their facts. The question involved has been settled by this Court. The conclusion of the Circuit Court of Appeals is based upon the prior applicable decisions of this Court and is not a departure from the accepted and usual course of judicial proceedings in bankruptcy.

II. A Referee in Bankruptcy may conduct extensive preliminary hearings involving the merits for the purpose of determining whether or not a claim of adversity is genuine or merely colorable.

III. The decision of the Circuit Court of Appeals is supported by *Louisville Trust Co. v. Cominger*, 184 U. S.

18, which has been repeatedly affirmed by this Court in numerous cases including *First National Bank of Chicago v. Chicago Title & Trust Co.*, 198 U. S. 280 and *Galbraith v. Vallery*, 256 U. S. 46.

The *Comingor* case requires that:

(a) An adverse respondent plead his claim of adversity at the outset, and

(b) Make his formal protest to the exercise of summary jurisdiction before a final order has been entered.

Respondents in the instant case have fulfilled the requirements of the *Comingor* case.

IV. Adverse claimants may challenge the summary jurisdiction of the Bankruptcy Court at any time prior to the entry of a final order by a Referee. The petitioner's cited cases are distinguishable on their facts and none is applicable to the instant controversy.

V. The motion challenging the summary jurisdiction of the Court was not withdrawn. Respondents filed a motion to dismiss the trustee's petition on the ground that one of the petitioning creditors was disqualified and incompetent and that the Court had no jurisdiction of the subject matter. It was this motion which was withdrawn by respondents.

## ARGUMENT.

---

### I.

This case is not one within the purview of Rule 38(5) of this Court.

Review on Writ of Certiorari under Rule 38(5) is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor. Such reasons do not exist in this case.

The Writ will not issue merely to afford the party defeated in the Circuit Court of Appeals another hearing, since it is fundamental that this Court will not, on Certiorari, take cases fully heard and adjudicated below for the mere purpose of re-examining the correctness of the result.

Opinions must be read in connection with the facts to determine whether there is a conflict. *White v. Aronson*, 302 U. S. 16, 21. The cases cited by petitioner are distinguishable on their facts from the instant case. That there is no conflict between the decisions of the Circuit Court of Appeals for the Seventh Circuit with the decisions of the Second and Eighth Circuit Courts of Appeals with respect to the question here involved, is shown by the fact that the Circuit Court of Appeals for the Second Circuit in the case of *In re West Produce Corp.*, 118 F. (2d) 274 cites with approval the case of *In re Murray*, 92 F. (2d) 612, decided by the Circuit Court of Appeals for the Seventh Circuit. Also, *Blachman v. McCluer*, 63 F. (2d) 580, decided by the Circuit Court of Appeals for the Eighth Circuit, is cited with approval in the *Murray* case.

The Writ will not be granted merely to permit the review of a determination of fact where the principles of law are well settled, nor to obtain the review of the application of settled principles where the propriety of the application is dependent upon the issues of fact peculiar to the particular case.

The Circuit Court of Appeals in deciding the instant case has followed the opinion of this Court in *Louisville Trust Co. v. Comingor*, 184 U. S. 18, which controls the determination of the present controversy. The *Comingor* case has been repeatedly affirmed by this Court. In none of the petitioner's cited cases has reference been made to the *Comingor* case.

The question involved has been settled by this Court, and the conclusion of the Circuit Court of Appeals is based on the prior applicable decisions of this Court and is not a departure from the accepted and usual course of judicial proceedings in bankruptcy.

This case does not require the exercise of supervision by this Court and it is therefore submitted that the Petition for a Writ should be denied.

## II.

**A Referee in Bankruptcy may conduct extensive preliminary hearings involving the merits for the purpose of determining whether or not a claim of adversity is genuine or merely colorable.**

The Referee, in his order denying summary jurisdiction, distinctly states that he conducted the hearings for the purpose of inquiring whether the claim of adversity set up by respondents in their answer (R. 322) was substan-



tial or merely colorable. In many cases, jurisdiction may depend on the ascertainment of facts *involving the merits*, and in that sense the Court exercises jurisdiction of disposing of the preliminary inquiry, although the result may be that it finds that it cannot go farther. *Louisville Trust Co. v. Cominger*, 184 U. S. 18, 26. The Referee is in the best position to state what the nature of the inquiry was. It is true that approximately five or six hearings were had, but that is not unusual considering the nature of the issues involved. That the Referee had the right to conduct such preliminary inquiry is too well established to require any lengthy quotation from authorities. The following are the leading cases which confirm this fundamental doctrine:

*Mueller v. Nugent*, 184 U. S. 1, 15.

*Taubel-Scott-Ritzmiller Co. v. Fox*, 264 U. S. 426, 433.

*Harrison v. Chamberlin*, 271 U. S. 191, 194.

*Harris v. Avery Brundage Co.*, 305 U. S. 160, 163.

*Collier on Bankruptcy*, Vol. 2, 14th Ed., Sec. 23.07, and the cases cited therein.

### HI.

The decision of the Circuit Court of Appeals is supported by *Louisville Trust Co. v. Cominger*, 184 U. S. 18.

The Circuit Court of Appeals concluded that respondents' objection to the summary procedure was raised in apt time relying upon *Louisville Trust Co. v. Cominger*, 184 U. S. 18 and the other cases cited in its opinion (R. 403-404).

In an analysis of *Louisville Trust Co. v. Cominger*, it is advisable to examine the facts, as set forth in the opinion

of the Circuit Court of Appeals, reported in 107 F. 898. The Circuit Court of Appeals summarized the facts as follows: On June 20, 1900, the Referee entered his rule against Comingor, who was a prior assignee of the bankrupt's assets, directing him to show cause why he should not return certain moneys paid to himself and to his counsel in connection with the assignment. On June 23, 1900, Comingor answered, stating that he was certain that the court would, on a full hearing, allow him at least the amount of money he had paid to himself as assignee, stating that he was a man of no means and prayed that the court give him such relief in the premises as the court deemed proper. (At this point Comingor made no objection to the court's jurisdiction, nor did he pray that the rule should be dismissed.) On June 23, 1900, the Referee made the rule absolute, and Comingor was directed to pay the money he had received as assignee to the receiver in bankruptcy. On June 28, 1900 another order was entered providing that Comingor show cause why he should not be required to pay to the receiver the money which had been paid to his attorneys. On June 30, 1900 Comingor for response to said order stated that the money was paid to his attorneys for services rendered him while he was acting as assignee and also alleged his inability to pay said money to the receiver. The foregoing response was also adjudged insufficient by the Referee. The rule was made absolute and Comingor was ordered to pay to the receiver the money he had paid to his attorneys. Thereupon Comingor prayed for a review by the Judge. In certifying the questions to the Judge, the Referee stated that Comingor was not entitled to any compensation as assignee, and, further, that he had no legal right to pay attorneys' fees and in contemplation of law must be deemed to have the funds in his possession. Pending action by the Judge on

the Referee's certificate and report, the Judge referred the case back to the Referee, to take testimony and to report what services had been rendered by Comingor and his attorneys. Comingor then appeared before the Referee on the re-reference, and proof was offered by Comingor and the trustee and stipulations were entered into with reference to the value of the services rendered by Comingor and his attorneys. On December 11, 1900, the Referee reported to the Judge that neither Comingor nor his attorneys had performed services of value and made no modification of his former report.

Continuing with its statement of the facts, the Circuit Court of Appeals, in its opinion, said that while the re-reference was pending before the Referee on November 10, 1900 (which was ~~six months~~ after the Referee had made the rules absolute) Comingor tendered an amended response which he offered to file, *and for the first time contested the summary jurisdiction of the Referee.* The Referee refused to entertain the amended response, and it was again tendered on the filing of the Referee's report. The District Judge affirmed the Referee's report, and held that the claim of lack of jurisdiction came too late. At page 903 of the Federal Report, it is stated:

"We have made a somewhat detailed statement of the course of the proceedings in the case, in order to show the relation of the petitioner thereto; for it was upon the ground of the petitioner's implied consent to the mode adopted that the district judge justified it."

Further, at page 904, the Circuit Court of Appeals said:

"But the district judge puts his conclusion upon the ground that the petitioner has acquiesced in the course pursued, by making response to the orders, asking to be relieved in the premises, and going into proof before the referee, and making stipulations concerning the proofs on the reference."

At page 906, the Circuit Court of Appeals stated:

"We are therefore inclined to think that this petitioner was not precluded from his right to raise the objection to the mode of proceeding at the time he did, *which was before the making of the final order*, and that the court erred in refusing to entertain it." (Italics ours.)

The Circuit Court of Appeals set aside the orders of the Referee and the District Judge, and held that Comingor's amended response attacking the summary jurisdiction of the court was sufficient.

It appears from the foregoing statement that the *Comingor* case did not involve an *ex parte* hearing as stated by petitioner at page 15 of his Brief.

This Court in 184 U. S. 18 affirmed the Circuit Court of Appeals. Petitioner at page 15 of his Brief attempts to distinguish the *Comingor* case from the instant case upon the two following grounds:

1. That a petition was filed by the Trustee in the instant case and no element of coercion was exerted upon the respondents in our case. This statement ignores the fact that in the instant case the respondents did not appear voluntarily in this proceeding. They did not ask leave of Court to answer, but were directed by order of Court to answer the petition (R. 321). In default of a pleading the respondents would have admitted the allegations of the petition for a turn-over order. Petitioner also ignores the fact that the end sought in the *Comingor* case and in our case was identical, in the former a turn-over of money, and in the latter a turn-over of property. The consequence for failure to comply with the turn-over order in either case would have been the same—*imprisonment for contempt of court*.

2. That the respondent in the *Comingor* case pleaded his claims "at the outset." Petitioner confuses pleading the adverse claims with the question of contesting summary jurisdiction. In the *Comingor* case, this Court at page 24 stated:

"On the face of his responses, from first to last, it appeared that Comingor insisted that the \$3,200 had been paid by him to his counsel while they were acting for him, before the bankruptcy proceedings were commenced, for professional services rendered to him as assignee; and that he had retained and expended \$3,398.90 as his commissions as assignee in reliance on the belief that he was entitled to that amount on final settlement. *He thus asserted a claim to each of these sums adversely to the bankrupt*, and as outstanding when the petition in bankruptcy was filed, and these claims were in fact passed upon by the referee and the District Judge as being adverse." (Italics ours.)

The foregoing were the adverse claims which were pleaded at the outset. The fallacy of the trustee's contention that the respondent in the *Comingor* case attacked the jurisdiction of the Bankruptcy Court at the outset of the proceeding is evident when one examines the following statement at page 26 of this Court's opinion which held that Comingor's attack on the jurisdiction was timely because:

"\* \* \* he had pleaded his claims in the outset, and he made his formal protest to the exercise of jurisdiction before the final order was entered."

In the instant case the respondents at the outset asserted their claim of adversity in their answer and stated therein that none of the property, real or personal, referred to in the trustee's petition ever belonged to the bankrupt, and prayed that the petition for a turn-over order be dismissed (R. 11-13). The respondents in this case also made their



protest to the summary jurisdiction of the Court before any order was entered by the Referee (R. 18-20, 266).

Therefore in the present case the two requirements set forth in the *Comingor* case that: (1) the adverse claim be pleaded at the outset; and (2) the protest to the exercise of summary jurisdiction be made before a final order has been entered, have been fulfilled.

We further urge that the facts in the *Comingor* case are much stronger in favor of jurisdiction than the facts in the instant case. It will be noted that in the *Comingor* case the respondent did not plead lack of jurisdiction until after the Referee in bankruptcy had made his order and report to the Judge, and it was not until the re-reference of the matter to the Referee that *Comingor* first pleaded his objections. In the instant case the oral motion to dismiss was made prior to the entry of any order. This is true of the written motion to dismiss.

The *Comingor* decision has been affirmed repeatedly by this Court. It is sufficient to note *First National Bank of Chicago v. Chicago Title & Trust Co.*, 198 U. S. 280, 289-291, and *Galbraith v. Valley*, 256 U. S. 46, 48-50.

In *Galbraith v. Valley*, 256 U. S. 46 (cited by the Circuit Court of Appeals (R. 404)) this Court, in denying the existence of summary jurisdiction over adverse claimants, said, at page 48:

"We think the referee was right in holding that the case was governed by *Louisville Trust Co. v. Comingor*."

And continuing at page 49, it is stated:

" \* \* \* This case (the *Comingor* case) has been repeatedly cited as determinative of the law and practice in similar cases."

And at page 50, this Court said:

" \* \* \* The principle of the *Comingor* case has never been departed from in this court."

This Court also noted at page 49 that the Circuit Court of Appeals (which was reversed by this Court) had failed to make reference to the *Comingor* case.

It is therefore submitted that the *Comingor* case is decisive authority supporting the decision of the Circuit Court of Appeals that respondents challenged the summary jurisdiction of the Court in apt time.

#### IV.

**Adverse claimants may challenge the summary jurisdiction of the Bankruptcy Court at any time prior to the entry of a final order by a Referee.**

The foregoing principle is conclusively established by the *Comingor* case.

Another leading case on this proposition is *In re Bergstrom*, 1 F. (2d) 288 (C.C.A. (7)), in which a trustee in bankruptcy filed a petition for a turn-over order against successors in interest of a purchaser at a chattel mortgage sale. The transfers antedated the bankruptcy. The answers did not contest the court's jurisdiction, but prayed that the injunction be dissolved, the petition dismissed and the rule discharged. The District Court directed a turn-over. The Circuit Court of Appeals for the Seventh Circuit in reversing the District Court stated that the trustee's petition and the sworn answers, as well as the Referee's findings, conclusively indicated that the claims of respondents were based on transfers antedating the bank-

ruptcy, and that therefore their claims were substantial and not merely colorable. At page 290, the court said:

"It is urged that the parties submitted themselves to the jurisdiction of the Court. There is no evidence of any intention to do so. The parties ask that the injunction be dissolved, the petition dismissed, and the rule discharged upon their sworn answers. *The question of procedure was raised at least 10 days before the decision, and the right to proceed summarily was directly challenged.* \* \* \* The order of the District Court is reversed, with direction to dismiss the trustee's petition." (Italics ours.)

Another case directly in point is *In re Horgan*, 158 F. 774. In this case the Circuit Court of Appeals for the First Circuit said at page 777:

"Upon the question of consent, it is shown that the petitioners did not voluntarily appear in the District Court, that they objected to the power of the court to make the order at the hearing, and that subsequently, and before the entry of the final decree, they specifically objected to the jurisdiction of the court to proceed summarily. *This was clearly sufficient under the decisions of the Supreme Court. Upon this point it is only necessary to cite Louisville Trust Co. v. Cominger*, 184 U. S. 18, 26. The decree of the District Court is reversed, with costs for the petitioners in this Court." (Italics ours.)

To the same effect is *In re White Satin Mills, Inc.*, 25 F. (2d) 313, where the Court at page 314 said:

"The fact that no objection was made to the jurisdiction of the referee to determine the issue in a summary proceeding, until after the testimony was heard, is probably not sufficient to justify a conclusion that the petitioner consented to the making of the order, in view of the fact that he did, before it was made, object." (Italics ours.)

We therefore respectfully submit that the *Comingor* case, and the cases hereinbefore set forth, which are cited by the Circuit Court of Appeals in the instant case in support of its conclusion (R. 403, 404) are determinative of the law in this case.

The Circuit Court of Appeals for the Seventh Circuit in the case of *In re Diversey Building Corp.*, 90 F. (2) 703, follows the *Comingor* and *Bergstrom* cases, and states at page 707:

"We think this question of jurisdiction before us is controlled by the ruling in *Louisville Trust Company v. Comingor*, 184 U. S. 18; 22 S. Ct. 293, 296; 46 L. Ed. 413."

It is well established, therefore, that a motion contesting the summary jurisdiction of the bankruptcy court may be made at any time prior to the entry of a final order by the Referee.

At pages 16-18 of his Brief, petitioner cites the cases hereinafter set forth in support of his contention that respondents waived their privilege of demanding that the issues be heard in a plenary proceeding and impliedly consented to the summary jurisdiction of the court. None of these cases is applicable to the facts in the present case.

*MacDonald v. Plymouth County Trust Company*, 286 U. S. 263, is without application, since, as stated by this Court at page 265:

"The respondent appeared in the proceeding, denied the material allegations of the petition; *but consented in open court* that the trial of the issues proceed before the Referee." (Italics ours.)

The Circuit Court of Appeals held that as the issues before the Referee were determinable only in a plenary

suit, the Referee, notwithstanding the consent of the parties, was without jurisdiction to decide them. The only question this Court determined was that if a party actually consents in open court to summary jurisdiction, the Referee has the power to decide the issues. Clearly, this is not our case.

It is noted that the *MacDonald* case at page 266 cites the *Comintör* case, with approval.

Petitioner in quoting from *Harris v. Avery Brundage Co.*, 305 U. S. 160 omits troublesome portions of this Court's opinion. The following statement, at page 163, was excluded:

"Petitioners controlled and had custody of this Fund as agents of the Association and *did not assert any adverse interest in themselves.*"

And at page 164, this Court continued:

"Furthermore, petitioners *consented and agreed in open court* and respondents assented to the court's disposition of the Fund in a summary proceeding.

"\* \* \* No one of them—including petitioners—asserted or in any way indicated to the bankruptcy court that there could be any interest in the money distributed adverse to respondents. \* \* \*

"Petitioners having *consented* that the Fund be subject to the orders of the bankruptcy court, and that court having determined that petitioners held the Fund as agents of the Association, there was jurisdiction to enter the orders in question. Affirmed." (Italics ours.)

As stated by the Circuit Court of Appeals in the instant case:

"It is settled that the jurisdictional defense embraces merely a procedural right and that it may be waived in the same manner as any other procedural



privilege. *MacDonald v. Plymouth County Trust Company*, 286 U. S. 263, 267; *Harris v. Avery Brundage Co.*, 305 U. S. 160, 164. *The fact that the defense may be waived, however, is of little consequence in the instant case. The question is whether appellants waived such defense.* \* \* \* (R. 403). (Italics ours.)

*Fairbanks Steam Shovel Co. v. Wills*, 240 U. S. 642 is not pertinent. That case involved the validity of a chattel mortgage against the trustee. The Fairbanks Steam Shovel Co. without questioning the jurisdiction of the court appeared, answered and entered into a stipulation that a sale of the dredge therein involved, should proceed under an arrangement providing that if said company purchased the dredge, it should hold it subject to the decision of the controversy.

At pages 648-649, it is stated:

"It is objected by appellant that a determination that the bankrupt corporation had its principal place of business and therefore its residence in Cook County which is in the Northern District shows at the same time that the United States District Court for the Southern District of Illinois had no jurisdiction to entertain the proceeding in bankruptcy under Section 2 of the Bankruptcy Act, and hence no jurisdiction over the present controversy." \* \* \*

The question related to *venue* and was raised for the first time on appeal to the Circuit Court of Appeals for the Seventh Circuit. In *Diversey Building Corp.*, 90 F. (2d) 703 (C.C.A. (7)) the Court, at page 707 stated:

"The referee's conclusion that jurisdiction was waived, which was concurred in by the court, was apparently based upon the ruling in *Fairbanks Steam Shovel Company v. Wills*, 240 U. S. 642, 36 S. Ct. 466, 60 L. Ed. 841, affirming a decision of this court *In re Federal Contracting Co.*, 212 F. 688. The question

*there raised was purely one of venue. It was not set up by way of answer, and was raised for the first time, orally, in this court. The Supreme Court ruled that this court correctly held that the appellant, by answering and making defense upon the merits, consented to the jurisdiction (that is to say the venue)."* (Italics ours.)

The petitioner relies heavily on *In re West Produce Corp.*, 118 F. (2d) 274 (C.C.A. (2)). The turn-over order involved certain property including an automobile. In affirming that part of the order relating to the automobile the Court stated that although it was purchased in the name of an officer of the bankrupt, the purchase price appeared to have been paid by the bankrupt and the automobile was carried on the bankrupt's books as an asset. The officer claimed that the automobile was transferred to her and pointed to an entry in the bankrupt's books indicating such a transfer with a corresponding reduction in her loan account, but the entry appeared to have been a later insertion and was attacked by the trustee as fictitious. *The District Court's order recited that the evidence established that the automobile belonged to the bankrupt's estate and was in the officer's possession or control. The Court therefore had jurisdiction to proceed summarily; irrespective of possession, against the respondent whose claim was so unfounded as to be merely colorable and not genuine or substantial. Thus, the respondent was not entitled to a trial in a plenary suit. Taubel-Scott-Kitzmiller Co. v. Fox*, 264 U. S. 426, 432, 433. The entire observation of the Court as to an objection to summary jurisdiction is therefore dictum. *The West Produce* case in stating that objection to summary jurisdiction comes too late if first made at the time of submission for decision, after answer and hearing on the merits is contrary to and makes no reference to the *Comingor* case. Apparently the Court's attention was not invited to said case.

It is interesting to observe that the *West Produce* case cites the following cases in support of the foregoing statement: *In re Realty Associates Securities Corp.*, 98 F. (2d) 722 (C.C.A. (2)); *First State Bank v. Fox*, 10 F. (2d) 116 (C.C.A. (8)) and *In re Murray*, 92 F. (2d) 612, which was decided by the Circuit Court of Appeals for the Seventh Circuit. The petitioner in the present case placed great reliance upon the *Murray* case in the Circuit Court of Appeals (R. 403). In the *Murray* case the respondent voluntarily conveyed the property to the trustee to abide the outcome of the hearing and thus consented to the summary proceedings. The surrender of possession of property to a Bankruptcy Court gives the Court jurisdiction to administer the property. *In re H. M. Kouri Corp.*, 66 F. (2d) 241, 243 (C.C.A. (2)); *In re Prokof*, 65 F. (2d) 628, 630 (C.C.A. (7)). The Circuit Court of Appeals in the instant case stated that in the *Murray* case the adverse party by his pleading and conduct consented to jurisdiction (R. 403). Petitioner now has abandoned the *Murray* case in prosecuting his present Petition.

*First State Bank v. Fox*, 10 F. (2d) 116 (C.C.A. (8)) is cited in the *West Produce* case and by the petitioner at page 17. It is clear from the opinion of the Court that no objection was made to summary jurisdiction before the Referee, and that the objection apparently was made for the first time on appeal. This would clearly make this case inapplicable in the present controversy.

*In re Realty Associates Securities Corp.*, 98 F. (2d) 722 (C.C.A. (2)) also is cited in the *West Produce* case and by the petitioner at page 18. The question of the waiver of the privilege to attack summary jurisdiction was not involved and the statement of the Court with reference thereto is dictum. The Court stated, at page 725, that the Bankruptcy Court had jurisdiction to proceed

summarily for the reason that the property was in the hands of the bankrupt's agents or bailees and thus in the constructive possession of the Court, and also for the reason that the defense of the respondents was so unfounded as to be colorable and that they were therefore not entitled to trial in a plenary suit, citing *Taubel-Scott-Kitzmiller Co. v. Fox*, 264 U. S. 426, 432, 433.

It is therefore submitted that the *West Produce* case and the three cases above set forth which are cited in said case are not applicable to the decision of the instant controversy.

In *The Matter of Prebronx Realty Corp.*, 17 A.B.R. (N.S.) 346, involved a Referee's decision. Applications for turn-over orders were made against two respondents who were officers and directors of the bankrupt corporation. The applications were based on the ground that the respondents had withdrawn, without legal right, money from the corporation's funds. Sufficient proof was made of said fact. Since respondents' claim of adversity was found to be colorable, the Court had summary jurisdiction and the Referee's observation with respect to contesting said jurisdiction is dictum. It should be noted also that the Referee made no reference to the *Comingor* case or to any other leading case on this proposition.

*Blachman v. McCluer*, 63 F. (2) 580 (C. C. A. (8)) cited by petitioner at page 18 is not applicable. The Court at page 582 stated that so far as Irene Nagle (one of the respondents) was concerned:

"She appeared in response to the order to show cause, made no objection to its sufficiency and no objection to a determination by the referee upon the merits of the controversy between herself and the trustee upon his claim that the property was in the possession of the bankrupt and belonged to the bankrupt at the time the petition in bankruptcy was filed."

At page 583 the Court continued:

"After the decision of the referee has been rendered, an objection to his jurisdiction comes too late."

With respect to the claim of the other Respondent, the Court at page 584 stated:

"In addition to the power to determine whether it has possession, actual or constructive, of property claimed adversely, the court also has the power to determine whether an adverse claim is real and substantial or merely colorable. *Harrison, Trustee v. Chamberlin*, 271 U. S. 191, 46 S. Ct. 467, 70 L. Ed. 897.

"The court below, however, did not hold that the claim of Henry Bachman was merely colorable, but based its conclusion that it had jurisdiction upon a determination that at the time the petition was filed it had possession of the property which was the subject of the controversy." (Italics ours.)

It is noted that *Bachman v. McCluer* is cited with approval by the Circuit Court of Appeals for the Seventh Circuit in the case of *In re Murray*, 92 F. (2) 612, 614.

*In re Falk*, 30 F. (2) 607 (C.C.A. (2)) involved a hearing under Section 60 (d) of the Bankruptcy Act to review payments made by the bankrupt to his attorney. This section enables the trustee to safeguard the estate and to secure a summary re-examination of the propriety of a fee. The Referee directed the trustee to bring a hearing under said section. The trustee without filing a petition, as required by said section served notice of hearing on the attorney. At page 609 the Court stated that the attorney did not dispute that the Referee had jurisdiction of the subject matter and conceded that if the proceeding had been instituted upon a proper petition and the Court had held that the fee paid him was in excess of reasonable compensation, an order to return the overplus to the trust.



tee would have been the proper procedure. The Court merely held that the proceeding was summary and administrative and while the attorney was an adverse claimant, he was not one against whom a plenary suit had to be brought. The Court also held that the provision with respect to filing a petition is directory and may be waived by the appearance of the respondent, the filing by him of a petition setting forth his services and his failure to object to the form of the proceeding.

*In re Lipton*, 4 F. Supp. 799 (D. C. N. Y.) involved the question as to whether the trustee was entitled to the surrender value of life insurance policies issued on the life of the bankrupt. An insurance company appeared generally and answered the trustee's petition on the merits. Thereafter the respondent attempted to *withdraw* from the proceeding. The District Judge held, at page 800, that the "subsequent attempt to withdraw was plainly abortive." The opinion sets forth no facts with reference to the attempted withdrawal, and the Judge cites no authority for his conclusion. However, the case is not applicable to the facts in the instant case.

*In re Franklin Brewing Co.*, 257 F. 135 (D. C. N. Y.) does not aid the petitioner. There the court set aside a mortgage executed by the bankrupt and thereafter the trustees in bankruptcy filed a motion for an order directing the respondents to deliver for cancellation, bonds secured by said mortgage which were held by them. The motion was granted and *the bonds were surrendered*. The bankrupt had delivered to the mortgage trustee a sum of money as interest upon the bonds, which was paid to the respondents. The trustees in bankruptcy claimed the payment of said sum to the mortgage trustee and its distribution thereof were illegal because *the mortgage had been set aside and the bonds had been cancelled*. The trustee

in bankruptcy thereupon applied for an order directing respondents to pay to them the said sum and that the mortgage trustee pay so much thereof as the respondents should fail to pay.

It is noted that respondents surrendered their bonds to the trustees in bankruptcy for cancellation and thus conferred summary jurisdiction upon the Court to hear and determine all matters relating to said bonds. *Page, Trustee v. Arkansas Natural Gas Corp.*, 286 U. S. 269, 271.

The Court in the *Franklin* case held that since respondents and the mortgage trustee challenged the jurisdiction of the Court to compel them by summary order to turn over said money and at the same time answered on the merits, they were estopped from questioning the Court's jurisdiction over them citing *In re Kornit Mfg. Co.* (D. C. N. J.) 192 F. 392. It clearly appears that there was no question of consent to summary jurisdiction before the Court, as the respondents had by their conduct conferred upon the Court power to determine summarily the issues.

Since the *Kornit* case is the authority relied upon in the *Franklin* case, it is interesting to observe that in the *Kornit* case, the respondents were officers and agents of the bankrupt who exercised complete control and unbroken dominancy over it. In such circumstances the respondents, with respect to the property obtained by them through the action of subservient directors were held not to be adverse claimants but were treated as if they were the bankrupts. Thus in the *Kornit* case the Court had jurisdiction to proceed summarily and the statement of the Court that neither at law nor in equity can a challenge to the jurisdiction be joined with a defense to the merits is dictum. Furthermore, the case of *In re Olweiss*, 10 F. Supp. 743 decided by the District Court of New York expressly repudiates the *Franklin* case and holds that the statement in said case

with respect to the waiver of jurisdiction "is only dictum and is against the authoritative decisions," citing the *Comingor* case and *First National Bank of Chicago v. Chicago Title & Trust Co.*, 198 U. S. 280 as authority for its conclusion.

*In re Ackermann*, 82 F. (2d) 971 (C. C. A. (6)), is cited by petitioner at page 18. A reading of the case and reference to petitioner's quotation therefrom readily discloses that the case is of no assistance in the determination of the decision in the instant case. Obviously, if objection was not made by the respondent in that case to the power of the Court to entertain the petition for a turn-over order on the ground that he was an adverse claimant, consent to adjudication thereon was inferable.

*In re Latex Drilling Co.*, 11 F. (2) 373 (D. C. W. D. La.), requires no comment other than the statement that all parties appeared voluntarily in the proceeding. The only question raised was that the Court determine the party entitled to receive the money involved.

The abstract propositions from textbooks cited by petitioner at page 19 afford no aid in the determination of this controversy. Since questions of waiver and consent relate to particular factual situations, the facts in each case must be examined. With this in mind, we have included in our analysis of petitioner's cited cases, a presentation of the facts therein involved.

It may be briefly noted, however, that the quotation from *Remington on Bankruptcy*, Vol. 5, pages 338-39 with reference to the joinder of defenses is predicated on *In re Kornit Mfg. Co.*, 192 F. 392; *In re Franklin Brewing Co.*, 257 F. 135, and *Sheppard v. Lincoln*, 184 F. 182 (D. C. N. Y.). As hereinbefore stated, the *Kornit* and *Franklin* cases have

been repudiated. The *Sheppard* case is to the same effect as said two cases.

The quotation from *Corpus Juris Secundum*, Vol. 8 (Bankruptcy), pages 1124-25, is incomplete and should be:

"... by answering on the merits he waives objection to summary jurisdiction *under some authorities.*" (Italics ours.)

The authorities cited for the foregoing statement are: *In re Lipton*, 4 F. Supp. 799, (D. C. N. Y.), which has been heretofore set forth, and *In re Franklin Brewing Company*, 257 F. 135.

It is therefore respectfully submitted that petitioner's cases are not in point, are readily distinguishable on their facts, and are not determinative of the controversy in the instant case.

Petitioner, at page 20, states that the decision of the Circuit Court of Appeals places the petitioner in a disadvantageous position. The record in this case discloses that the respondents have been subjected to prolonged litigation in two proceedings. It is a matter of extreme importance in this case that the petitioner admits in his petition for a turn-over order (R. 8, 9, 10) and the Referee found (R. 322) that respondents had actual possession of the property involved under a claim of title for fifteen months prior to the bankruptcy.

The Circuit Court of Appeals stated:

"... There is no dispute but that appellants obtained possession of the property in question on June 12, 1940, fifteen months prior to the institution of bankruptcy. Furthermore, it is conceded by all parties, and so recognized by the lower court, that appellants are adverse parties" (R. 402).

In view of these facts, the petitioner, feeling insecure, as to his right to relief in a summary proceeding, instituted a plenary suit in another court (R. 323, 404, 405). Therefore the respondents have been put to the burden and expense of defending the instant proceeding before the Referee, the District Court, the Circuit Court of Appeals, and in this Court. In addition, the respondents are required to make their defense in the plenary suit. The burden thus has been placed upon the respondents by the trustee who has sought two opportunities to litigate the same issues by the institution of a summary proceeding and a plenary suit.

V.

**The motion challenging the summary jurisdiction of the court was not withdrawn.**

Petitioner at page 22 of his Brief states:

"Counsel for respondents specifically asked leave to file a written motion and argument attacking the *summary jurisdiction* of the court and this after the court had informed him that respondents had answered the petition. Subsequently counsel for respondents expressly *withdrew* their motion." (Italics ours.)

*This statement is not correct.*

As hereinbefore set forth in our "Statement of the Case," the quotations from the record by petitioner at pages 6 and 21 of his Petition and Brief do not relate to the motion contesting the summary jurisdiction, but refer to a contest of the order of adjudication (R. 238, 242). Respondents filed a motion to dismiss the trustee's petition on the ground that one of the petitioning creditors was disqualified and incompetent for the reasons in said mo-



tion set forth, and that the Court had no jurisdiction of the subject matter (R. 16, 17). It was this motion which was referred to and withdrawn (R. 242, 243).

The oral motion contesting the summary jurisdiction. (R. 266) and the written motion challenging said jurisdiction (R. 18-20) were not withdrawn.

Petitioner's argument that a colloquy in the instant case was sufficient to manifest consent to summary jurisdiction is based on an erroneous statement of fact.

*Plymouth County Trust Company v. MacDonald*, 53 F. (2d) 827, cited by petitioner at page 21, is not, in any event, applicable to the present case. In that case counsel for the respondent *expressly consented* in open court to summary jurisdiction upon the understanding that the summary proceeding be conducted under the rules of evidence in a plenary suit. The Circuit Court of Appeals for the First Circuit held that as the issues before the Referee were determinable only in a plenary suit, the Referee, notwithstanding the consent of the parties, was without jurisdiction to decide them. This Court in 286 U. S. 263 *reversed* and held that by the consent of the respondent in open court, the Referee had power to decide the issues.

The case *was not affirmed* by this Court as stated by petitioner at page 21.

Petitioner states at page 22 that the decision below affords the respondents two trials and leads to a result grossly inequitable to the trustee. As we have heretofore set forth, it is the trustee who has sought two trials, by the institution of summary and plenary proceedings. The trustee will not be required to institute a suit in another Court, for he already has done that. As to respondents acquiring full knowledge of the trustee's case, and govern-

ing themselves accordingly at a second trial, petitioner ignores the fact that in a summary proceeding in which jurisdiction is challenged, both the trustee and respondents are required to introduce evidence involving the merits in order that the Court may inquire whether the claim of adversity is substantial or merely colorable.

### CONCLUSION.

The decision of the Circuit Court of Appeals is clearly correct. It is based on the applicable decisions of this Court and does not depart from the accepted and usual course of judicial proceedings. Since the petitioner has shown no sufficient reason for review by this Court of said decision, it is respectfully submitted that his Petition for a Writ of Certiorari be denied.

Respectfully submitted,

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*Of Counsel.*



# SUPREME COURT OF THE UNITED STATES.

No. 307.—OCTOBER TERM, 1944.

Harry W. Cline, Trustee in Bankruptcy  
of Gold Medal Laundries, Inc., Petitioner,

vs.

Arthur S. Kaplan, Harry Kaplan, and  
Budget Launderers, Inc., Respondents.

On Writ of Certiorari  
to the United States  
Circuit Court of Ap-  
peals for the Seventh  
Circuit.

[December 4, 1944.]

MR. JUSTICE FRANKFURTER delivered the opinion of the Court.

This case concerns the powers of a bankruptcy court when a claim adverse to the bankrupt estate is asserted.

An involuntary petition for adjudication in bankruptcy was filed against Gold Medal Laundries on September 22, 1941. A month later the adjudication was made. On December 22, petitioner, the trustee in bankruptcy, filed with the referee a petition for an order directing the respondents to turn over certain assets, allegedly belonging to the bankrupt, which had come into possession of the respondents some fifteen months prior to the institution of the bankruptcy proceedings. Respondents' answer claimed ownership in themselves and prayed dismissal of the petition. Extensive hearings were held to determine whether the property was in the constructive possession of the bankrupt. Prior to the close of the hearings respondents orally moved that the petition be dismissed for want of summary jurisdiction and a formal motion to this effect was filed on May 19, 1942. On June 24, 1942, the referee granted this motion. The District Court reversed, whereupon the referee denied a turnover order on the merits and the District Court again reversed. Appeals from both decisions of the District Court were taken to the Circuit Court of Appeals for the Seventh Circuit. Having found that the objection to the summary jurisdiction had been timely and had not been waived, that court sustained the referee's dismissal for lack of jurisdiction. 142 F. 2d 301. Conflicting views having been expressed in different circuits on matters affecting bankruptcy ad-

ministration which ought not to be left in doubt, we granted certiorari. 323 U. S. —

A bankruptcy court has the power to adjudicate summarily rights and claims to property which is in the actual or constructive possession of the court. *Thompson v. Magnolia Co.*, 309 U. S. 478, 481. If the property is not in the court's possession and a third person asserts a *bona fide* claim adverse to the receiver or trustee in bankruptcy, he has the right to have the merits of his claim adjudicated "in suits of the ordinary character, with the rights and remedies incident thereto". *Galbraith v. Valley*, 256 U. S. 46, 50; *Taubel, etc., Co. v. Fox*, 264 U. S. 426. But the mere assertion of an adverse claim does not oust a court of bankruptcy of its jurisdiction. *Harrison v. Chamberlin*, 271 U. S. 191, 194. It has both the power and the duty to examine a claim adverse to the bankrupt estate to the extent of ascertaining whether the claim is ingenuous and substantial. *Louisville Trust Co. v. Comingor*, 184 U. S. 18, 25-26. Once it is established that the claim is not colorable nor frivolous, the claimant has the right to have the merits of his claim passed on in a plenary suit and not summarily. Of such a claim the bankruptcy court cannot retain further jurisdiction unless the claimant consents to its adjudication in the bankruptcy court. *MacDonald v. Plymouth County Trust Co.*, 286 U. S. 263.

Consent to proceed summarily may be formally expressed, or the right to litigate the disputed claim by the ordinary procedure in a plenary suit, like the right to a jury trial, may be waived by failure to make timely objection. *MacDonald v. Plymouth County Trust Co.*, *supra* at 266-267. Consent is wanting where the claimant has throughout resisted the petition for a turnover order and where he has made formal protest against the exercise of summary jurisdiction by the bankruptcy court before that court has made a final order. *Louisville Trust Co. v. Comingor*, *supra*. In the *Comingor* case although the claimant "participated in the proceedings before the referee, he had pleaded his claims in the outset, and he made his formal protest to the exercise of jurisdiction before the final order was entered". *Id.* at 26. This, it was held, negated consent and thereby the right to proceed summarily.

Thus, what a bankruptcy court may do and what it may not do when a petition for a turnover order is resisted by an adverse



claimant is clear enough. But whether or not there was the necessary consent upon which its power to proceed may depend is, as is so often true in determining consent, a question depending on the facts of the particular case. And so we turn to the facts of this case.

When the trustee filed his petition for a turnover order, respondents denied any basis for such an order and asserted their adverse claim. There is no dispute about that. Before the matter went to the referee for determination, respondents explicitly raised objection to the disposition of their claim by summary procedure. They later amplified that objection by a written motion and supported it by extended argument. The established practice based on the criteria of the *Comingor* case was thus entirely satisfied. We reject the suggestion that respondents conferred consent by participating in the hearing on the merits. See *In re West Produce Corp.*, 118 F. 2d 274, 277. In view of the referee's opinion that the hearings were held to determine whether the bankrupt had constructive possession of the property, the petitioner can hardly claim the benefit of the restricted rule which he invokes. In any event, such a view is contrary to that which was decided in *Louisville Trust Co. v. Comingor*, *supra*, which held, as we have noted, that consent is not given even though claimant "participated in the proceedings" provided formal objection to summary jurisdiction is made before entry of the final order. And the *Comingor* case "has been repeatedly cited as determinative of the law and practice in similar cases". *Galbraith v. Vallely*, 256 U. S. 46, 49.

We find no merit in other questions raised by the petitioner. But they do not call for elaboration.

*Affirmed.*